

17103357D

HOUSE BILL NO. 2251

Offered January 11, 2017

Prefiled January 11, 2017

A BILL to amend and reenact §§ 51.1-124.3, 51.1-135, 51.1-138, 51.1-145, 51.1-201, 51.1-212, as it is currently effective and as it shall become effective, 51.1-301, 51.1-304, 51.1-306.1, 51.1-309, 51.1-611, 51.1-1100, 51.1-1103, 51.1-1116, 51.1-1117, 51.1-1127, 51.1-1128, 51.1-1131.1, 51.1-1150, 51.1-1153, 51.1-1161, 51.1-1169, 51.1-1172, 51.1-1178, 51.1-1183, 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 Article 9 of Chapter 1 of Title 51.1 a section numbered 51.1-170, relating to the Virginia Retirement System; optional defined contribution retirement plan for state and local employees.

Patron—Jones

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3, 51.1-135, 51.1-138, 51.1-145, 51.1-201, 51.1-212, as it is currently effective and as it shall become effective, 51.1-301, 51.1-304, 51.1-306.1, 51.1-309, 51.1-611, 51.1-1100, 51.1-1103, 51.1-1116, 51.1-1117, 51.1-1127, 51.1-1128, 51.1-1131.1, 51.1-1150, 51.1-1153, 51.1-1161, 51.1-1169, 51.1-1172, 51.1-1178, 51.1-1183, 51.1-1400, 51.1-1401, 51.1-1402, 51.1-1403, and 51.1-1405 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 9 of Chapter 1 of Title 51.1 a section numbered 51.1-170 as follows:

§ 51.1-124.3. Definitions.

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

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

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

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

"Average final compensation" means the average annual creditable compensation of a member during his 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.

INTRODUCED

HB2251

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

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

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

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

71 "*Employment service*" means service in a covered position in one of the following plans administered
72 by the Virginia Retirement System or under authority granted by the Virginia Retirement System:
73 §§ 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.5, 51.1-126.6, and 51.1-170. *Employment service shall be*
74 *taken into account for purposes of eligibility for applicable benefits and to calculate length of service in*
75 *a covered position but shall not be considered creditable service and shall not be available for purchase*
76 *under 51.1-142.2.*

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

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

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

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

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

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

91 "Person who becomes a member on or after July 1, 2010," means a person who is not a member of
92 a retirement plan administered by the Virginia Retirement System the first time he is hired on or after
93 July 1, 2010, in a covered position. Subsequent separation from such position and subsequent
94 employment in a covered position shall not alter the status of a person who becomes a member on or
95 after July 1, 2010. "*Person who becomes a member on or after July 1, 2010,*" *does not include a*
96 *participant in the optional defined contribution retirement plan described in § 51.1-170.*

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

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

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

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

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

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

114 "Retirement System" means the Virginia Retirement System.

115 "Service" means service as an employee.

116 "State employee" means any person who is regularly employed full time on a salaried basis, whose
117 tenure is not restricted as to temporary or provisional appointment, in the service of, and whose
118 compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or
119 any department, institution, or agency thereof. "State employee" shall include any faculty member, but
120 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.

§ 51.1-135. Compulsory membership.

Membership in the retirement system shall be compulsory for all eligible employees who enter service after the effective date of coverage. For purposes of this section, "membership in the retirement system" includes an eligible employee's participation in the hybrid retirement program pursuant to § 51.1-169 or the optional defined contribution retirement plan described in § 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. *For eligible employees who elect to participate in the optional defined contribution retirement plan described in § 51.1-170, however, no enhanced benefits as provided in this section shall apply for any employment service in the optional defined contribution retirement plan. All applicable provisions of this section shall apply to creditable service in the retirement plan credited prior to the effective date of such member's participation in the optional defined contribution retirement plan. Employer contributions for such employees shall be governed by §§ 51.1-145 and 51.1-170.*

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

182 51.1-216.

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

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

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

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

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

208 H. If an employee (i) is in a position covered by the additional benefits under this section for at least
209 five years, (ii) is separated from the position because of a disability that entitles him to the disability
210 retirement benefits pursuant to § 51.1-156, and (iii) accepts a position with the same employer that is
211 not covered by the benefits under this section but whose salary and benefits are not less than those of
212 the position from which he is separated, then, at the sole discretion of the employer, the employee may
213 continue to be covered under the benefits permitted by this section in his new position.

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

217 **§ 51.1-145. Employer contributions.**

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

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

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

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

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

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

the employer.

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

H. Until July 1, 1997, the supplementary contribution rate for any employer shall be determined as the percentage represented by the ratio of (i) the average annual amount of post-retirement supplements, as provided for in this chapter, which is anticipated to become payable during the period to which the rate will be applicable with respect to former members to (ii) the total annual compensation of the members.

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

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

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

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

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

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

3. For members participating in a retirement plan established pursuant to Chapter 2 (§ 51.1-200 et seq.), (i) 75.84 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 83.90 percent for fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 91.95 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018;

4. For members participating in a retirement plan established pursuant to Chapter 2.1 (§ 51.1-211 et seq.), (i) 75.82 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 83.88 percent for fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 91.94 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018; and

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

L. In the case of all teachers whose compensation is paid exclusively out of funds derived from local revenues and appropriations from the general fund of the state treasury, the Commonwealth shall contribute to the extent specified in the appropriations act. In the case of any teacher whose compensation is paid out of funds derived in whole or in part from any special fund or from a contributor other than the Commonwealth or a political subdivision thereof, contributions shall be paid out of the special fund or by the other contributor in proportion to that part of the compensation derived therefrom. In the case of all state employees whose compensation is paid exclusively by the Commonwealth out of the general fund of the state treasury, the Commonwealth shall be the sole contributor, and all contributions shall be paid out of the general fund. In the case of a state employee whose compensation is paid in whole or in part out of any special fund or by any contributor other than the Commonwealth, contributions on behalf of the employee shall be paid out of the special fund or by the other contributor in proportion to that part of the employee's compensation derived therefrom. The governing body of each political subdivision is hereby authorized to make appropriations from the funds of the political subdivision necessary to pay its proportionate share of contributions on behalf of every state employee whose compensation is paid in part by the political subdivision. In the case of each person who has elected to remain a member of a local retirement system, the Commonwealth shall

305 reimburse the local employer an amount equal to the product of the compensation of the person and the
306 employer contribution rate as used to determine the employer contribution for state employees under this
307 section. Each employer shall keep such records and periodically furnish such information as the Board
308 may require and shall inform new employees of their duties and obligations in connection with the
309 retirement system.

310 M. The employer contribution rate established for each employer may include the cost to administer
311 any defined contribution plan administered by the Virginia Retirement System and available to the
312 employer. The portion of such contribution designated to cover administrative costs of the defined
313 contribution plans shall not be deposited into the trust fund established for the defined benefit plans but
314 shall be separately accounted for and used solely to defray the administrative costs associated with the
315 various defined contributions plans. This provision shall supplement the authority of the Board under
316 §§ 51.1-124.22 and 51.1-602 to charge and collect administrative fees to employers whose employees
317 have available the various defined contribution plans administered by the Virginia Retirement System.

318 N. Notwithstanding the foregoing, the total employer contribution for each employer authorized to
319 participate in the hybrid retirement program described in § 51.1-169 *or the optional defined contribution*
320 *retirement plan described in § 51.1-170* for any period, expressed as a percentage of the employer's
321 payroll for such period, shall be established as the contribution rate payable by such employer with
322 respect to its employees enrolled in the defined benefit plan established under this chapter. The
323 employer's contribution shall be first applied to the defined contribution component of the hybrid
324 retirement program described in § 51.1-169 *or the optional defined contribution retirement plan*
325 *described in § 51.1-170, as applicable*, and the remainder shall be deposited in the employer's retirement
326 allowance account. Institutions of higher education shall also pay contributions to the employer's
327 retirement allowance account in amounts representing the difference between the contribution rate
328 payable with respect to employees enrolled in the defined benefit plan under this chapter and the
329 employer contributions paid to any optional retirement plan it offers on behalf of any of its nonfaculty
330 Covered Employees, as described in 23.1-1020 through 23.1-1026. The employer contribution rate
331 established for each employer may include the annual rate of contribution payable by such employer
332 with respect to employees enrolled in the optional defined contribution retirement plans established
333 under §§ 51.1-126, 51.1-126.1, 51.1-126.3, and 51.1-126.4.

334 O. Employer contributions may be returned to the employer only as determined in accordance with
335 § 401(a) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder
336 applicable to governmental plans.

337 **§ 51.1-170. Optional defined contribution retirement plan.**

338 A. *The Board shall establish an optional defined contribution retirement plan covering any eligible*
339 *employee in a position covered for retirement purposes under this title who elects to participate in the*
340 *plan. The plan shall be in lieu of any other plan administered by the retirement system under this title.*
341 *Participating employees shall be deemed to be members of the retirement system to the extent consistent*
342 *with the provisions of this section. An employee who is eligible to participate in the optional retirement*
343 *plans established under §§ 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, 51.1-126.6, and*
344 *51.1-126.7 shall not be eligible to participate in the optional defined contribution retirement plan*
345 *described in this section.*

346 *The Board shall administer and maintain such optional defined contribution plan under policies and*
347 *procedures developed by the Board, and employers shall make contributions under such plan for the*
348 *benefit of their employees participating in such plan. Every employee who is eligible to participate in*
349 *the plan the first time he is hired or rehired on or after July 1, 2019, in a covered position may make*
350 *an irrevocable election in a manner and form established by the Board to participate in the optional*
351 *defined contribution retirement plan described in this section. Such irrevocable election shall be*
352 *exercised following the employee's entry into employment in an eligible position within an election*
353 *period and in accordance with guidelines developed by the Board. Any such employee who does not*
354 *elect to participate in the optional defined contribution retirement plan shall be deemed to have elected*
355 *to participate in the otherwise applicable retirement plan established by this title and administered by*
356 *the Virginia Retirement System.*

357 *A member who, on June 30, 2019, and July 1, 2019, actively participates in the Virginia Retirement*
358 *System defined benefit retirement plan established under this chapter, Chapter 2 (§ 51.1-200 et seq.),*
359 *Chapter 2.1 (§ 51.1-211 et seq.), Chapter 3 (§ 51.1-300 et seq.), or the hybrid retirement program*
360 *described in § 51.1-169 may make an irrevocable election in a manner and form established by the*
361 *Board to participate in the optional defined contribution retirement plan maintained under this section.*
362 *Such election shall be exercised no later than October 31, 2019. Such election shall become effective on*
363 *January 1, 2020. Any eligible member who does not make an election by October 31, 2019, shall be*
364 *deemed to have made an irrevocable election not to participate in the optional defined contribution*
365 *retirement plan and shall continue to participate in his current retirement plan.*

366 *The amount of the service retirement allowance for any eligible member of a defined benefit*

retirement plan established under this title who makes an irrevocable election to participate in the optional defined contribution retirement plan described in this section shall be governed by the service retirement provisions of the applicable defined benefit retirement plan for all creditable service credited prior to the effective date of the member's participation in the optional defined contribution retirement plan.

B. 1. The employer shall make a mandatory contribution on behalf of each employee participating in the optional defined contribution retirement plan in the amount of 8.5 percent of creditable compensation, which shall be made to the appropriate cash match plan established for the employee under § 51.1-608.

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

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

C. 1. An employee participating in the optional defined contribution retirement plan 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 in the amount of five percent of creditable compensation, which shall be made to the appropriate cash match plan established for the employee under § 51.1-608.

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

D. With respect to any employee who participates in the otherwise applicable retirement plan, the optional defined contribution retirement plan described in this section, or the hybrid retirement program described in § 51.1-169, the employer shall collect and pay all employee and employer contributions to the Virginia Retirement System for retirement, group life insurance, and the health insurance credit in accordance with the provisions of this title for such employee.

E. 1. The Board may develop policies and procedures for administering all aspects of the optional defined contribution retirement plan it maintains.

2. No employee who is an active member in the optional defined contribution retirement plan maintained by the Board under this section shall also be an active member or beneficiary other than a contingent annuitant of any other retirement plan administered by the retirement system or of any other optional retirement plan maintained under the provisions of this chapter.

3. No distributions from the optional defined contribution retirement plan maintained under this section shall be permitted for any employee who returns to service as an employee in a position covered for retirement purposes under the provisions of this chapter, Chapter 2 (§ 51.1-200 et seq.), Chapter 2.1 (§ 51.1-211 et seq.), or Chapter 3 (§ 51.1-300 et seq.), provided, however, such reemployment shall have no effect on distributions being paid in an annuity form under an annuity contract purchased with the employee's account balance.

4. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 on any employer for administering and overseeing the optional defined contribution retirement plan established pursuant to this section shall be charged for each employee participating in such plan and shall be for costs incurred by the Virginia Retirement System that are directly related to the administration and oversight of such plan. 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 optional defined contribution retirement plan shall not exceed the limit on compensation as adjusted by the Commissioner of the Internal Revenue Service pursuant to the transition provisions applicable to eligible participants under state and local governmental plans under § 401(a)(17) of the Internal Revenue Code as amended in 1993 and as contained in § 13212(d)(3) of the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66).

6. The Board may contract with private corporations or institutions, subject to the standards set forth in § 51.1-124.30, to provide investment products as well as any other goods and services related to the administration of the optional defined contribution retirement 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.

§ 51.1-201. Definitions.

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

"Employee" means a state police officer. Notwithstanding the foregoing, only the provisions of this section and the provisions of § 51.1-202 shall apply to any member for any employment service in the optional defined contribution retirement plan described in § 51.1-170. All provisions of this chapter shall apply to creditable service in the retirement plan credited prior to the effective date of such member's participation in the optional defined contribution retirement plan.

428 "Member" means any person included in the membership of the retirement system as provided in this
429 chapter.

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

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

432 **§ 51.1-212. (Effective until July 1, 2018) Definitions.**

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

434 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii)
435 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
436 Title 23.1, (iii) conservation police officer in the Department of Game and Inland Fisheries appointed
437 under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Department
438 of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title
439 4.1, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described
440 in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional
441 officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) ~~any~~ parole
442 officer appointed pursuant to § 53.1-143, and (viii) ~~any~~ commercial vehicle enforcement officer
443 employed by the Department of State Police. *However, only the provisions of this section and the*
444 *provisions of § 51.1-213 shall apply to any employee as defined in this section for any employment*
445 *service in the optional defined contribution retirement plan described in § 51.1-170. All provisions of*
446 *this chapter shall apply to creditable service in the retirement system credited prior to the effective date*
447 *of such member's participation in the optional defined contribution retirement plan.*

448 "Member" means any person included in the membership of the Retirement System as provided in
449 this chapter.

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

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

452 **§ 51.1-212. (Effective July 1, 2018) Definitions.**

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

454 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii)
455 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
456 Title 23.1, (iii) conservation police officer in the Department of Game and Inland Fisheries appointed
457 under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia
458 Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of
459 Title 4.1, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as
460 described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including
461 correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii)
462 ~~any~~ parole officer appointed pursuant to § 53.1-143, and (viii) ~~any~~ commercial vehicle enforcement
463 officer employed by the Department of State Police. *However, only the provisions of this section and the*
464 *provisions of § 51.1-213 shall apply to any employee as defined in this section for any employment*
465 *service in the optional defined contribution retirement plan described in § 51.1-170. All provisions of*
466 *this chapter shall apply to creditable service in the retirement system credited prior to the effective date*
467 *of such member's participation in the optional defined contribution retirement plan.*

468 "Member" means any person included in the membership of the Retirement System as provided in
469 this chapter.

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

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

472 **§ 51.1-301. Definitions.**

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

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

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

477 "Judge" means any justice or judge of a court of record of the Commonwealth, any member of the
478 State Corporation Commission or Virginia Workers' Compensation Commission, any judge of a district
479 court of the Commonwealth other than a substitute judge of such district court, and any executive
480 secretary of the Supreme Court assuming such position between December 1, 1975, and January 31,
481 1976. *Notwithstanding the foregoing, only the definitions in this section and the provisions of §*
482 *51.1-302, subsection B1 of § 51.1-305, and § 51.1-309 shall apply to any judge participating in the*
483 *optional defined contribution retirement plan described in § 51.1-170 for any employment service in the*
484 *optional defined contribution retirement plan.*

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

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

489 "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 federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided.

"Retirement system" means the Judicial Retirement System.

"Service" means service as a judge.

§ 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.). 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.

However, member contributions and employer contributions for any judge participating in the optional defined contribution retirement plan described in § 51.1-170 shall be determined under the provisions of §§ 51.1-145 and 51.1-170.

§ 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, *except for any judge who participates in the optional defined contribution retirement plan described in § 51.1-170 for any employment service in the optional defined contribution retirement plan*, shall be determined under the provisions of the hybrid retirement program described in § 51.1-169.

§ 51.1-309. Appearance as counsel in certain forums prohibited.

A. No former justice or judge of a court of record of the Commonwealth and no former full-time judge of a court not of record of the Commonwealth, who is retired and receiving retirement benefits under the provisions of the Judicial Retirement System *or who participated in the optional defined contribution retirement plan described in § 51.1-170*, shall appear as counsel in any case in any court of the Commonwealth.

B. No former member of the State Corporation Commission or Virginia Workers' Compensation Commission, who is retired and receiving retirement benefits under the provisions of the Judicial Retirement System *or who participated in the optional defined contribution retirement plan described in § 51.1-170*, shall appear as counsel in any case before the Commission of which he was formerly a member.

C. The provisions of subsection A shall not be applicable if (i) the retired justice or judge has been retired for at least two years and is not authorized for temporary recall by the Chief Justice of the Supreme Court, (ii) the retired justice or judge is appearing as counsel, pro bono, for an indigent person in a civil matter, (iii) such civil matter is assigned or referred to the retired justice or judge by a nonprofit legal aid program organized under the auspices of the Virginia State Bar, and (iv) the retired justice or judge is not an employee, officer, or board member of such nonprofit legal aid program. Nothing herein shall relieve the retired justice or judge from having obtained any license or meeting any requirement in connection with the appearance as counsel as required by law, rule, or regulation.

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

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

551 *defined contribution retirement plan described in § 51.1-170; (ii) an employee as defined in § 51.1-201;*
552 *(iii) an employee as defined in § 51.1-212; (iv) a judge who is participating in the optional defined*
553 *contribution retirement plan described in § 51.1-170; or (v) a qualifying part-time employee. Any*
554 *person participating in a plan established pursuant to § 51.1-126, 51.1-126.1, 51.1-126.4, or 51.1-126.5;*
555 *51.1-502.1, or 51.1-202.3 shall not be an eligible employee. Employees of the University of Virginia*
556 *Medical Center covered under the basic insurance policies purchased by the Medical Center shall not be*
557 *considered eligible employees under this chapter, unless the University of Virginia Board of Visitors, or*
558 *a duly authorized agent or representative of the Board of Visitors, purchases such insurance policies*
559 *from the Virginia Retirement System.*

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

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

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

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

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

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

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

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

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

587 **§ 51.1-1103. Participation in the program.**

588 A. All prior elections to participate in the program shall be irrevocable.

589 B. 1. Except for eligible employees who are employed by an institution of higher education in a
590 faculty position performing teaching, research or administrative duties, all eligible employees
591 commencing employment or who are reemployed on or after January 1, 1999, shall participate in the
592 program. The effective date of participation in the program for such employees shall be their first day of
593 employment.

594 2. Except for such employees of an institution of higher education, all eligible employees not
595 participating in the program prior to October 1, 2002, shall participate in the program effective January
596 10, 2003, unless such employee elects not to participate in the program as provided herein. An election
597 not to participate shall be in writing, and on forms prescribed by the Retirement System, and shall be
598 received by the Retirement System during the period commencing on October 1, 2002, but before
599 January 1, 2003. An election not to participate in the program shall be irrevocable and such employee
600 shall be ineligible to participate in the program for the period of his continued employment by the
601 Commonwealth except that any such employee who elects to participate in the hybrid retirement
602 program described in § 51.1-169 or the optional defined contribution retirement plan described in
603 § 51.1-170 shall participate in the program.

604 C. Any eligible employee who is employed by an institution of higher education in a faculty position
605 performing teaching, research or administrative duties may elect to participate in the program established
606 under this chapter or under an existing program provided by the institution. Any eligible employee who
607 is (i) employed by an institution of higher education in a faculty position performing teaching, research
608 or administrative duties prior to October 1, 2002, and (ii) not participating in the program, shall
609 participate in the program established under this chapter effective January 10, 2003, unless such
610 employee elects not to participate in the manner provided in subdivision B 2. Any eligible employee of
611 an institution of higher education in a faculty position performing teaching, research or administrative
612 duties employed or reemployed on or after October 1, 2002, shall participate in the program unless such

employee elects not to participate in the program, in writing and on such forms as prescribed by the Retirement System, within 60 days from the time of entry upon the performance of his duties. The effective date of participation in the program for such employee shall be the first day following the expiration of such 60-day period or January 10, 2003, whichever is later.

Any eligible employee under this subsection shall participate in the sickness and disability program established by his institution of higher education until such time as the employee participates in the program established under this chapter. If the institution of higher education has not established its own sickness and disability program, such eligible employee shall participate in the program established under this chapter effective on his first day of employment.

An election not to participate in the program established under this chapter shall be irrevocable and such employee shall be ineligible to participate in the program for the period of his continued employment by the Commonwealth.

D. Notwithstanding any provision to the contrary, no participating employee commencing employment or reemployment on or after July 1, 2009, shall receive benefits under Article 3 of this Chapter (§ 51.1-1109 *et seq.*) (Nonwork Related Disability Benefits) until the participating employee completes one continuous year of active employment or reemployment.

E. The provisions of this subsection shall apply to any eligible employee who participates in the program under the provisions of subdivision B 2 or subsection C. Any eligible employee, including a person employed by an institution of higher education in a faculty position performing teaching, research or administrative duties, who (i) is a member of the Retirement System, and (ii) commenced employment or was reemployed prior to January 1, 1999, shall have his sick leave balances, as of the effective date of coverage in the program, converted to disability credits, as provided in subsection F.

F. Any eligible employee converting his sick leave balance as provided in subsection E shall receive one hour of disability credit for each hour of sick leave. Disability credits shall be used to continue periods for which the participating employee receives income replacement during periods of short-term and long-term disability at 100 percent of creditable compensation. Disability credits shall be reduced by one day for each day that the participating employee receives short-term or long-term disability benefits.

G. Upon retiring directly from state service and receiving an immediate annuity, the eligible employee's unused disability credits shall be converted to service credit under the Retirement System at the rate of one month of service for each 173 hours of disability credits, rounded to the next highest month, unless the employee elects to be paid for the balance of such disability credits under the same terms and subject to the same conditions as are in effect for the payment of sick leave benefits in the employee's agency on December 31, 1998. Upon leaving state service under any other circumstances, the employee shall be paid for the balance of such disability credits under the same terms and subject to the same conditions as are in effect for the payment of sick leave benefits in the employee's agency on December 31, 1998, unless he elects to have such credits converted to service credit under the Retirement System at the rate of one month of service for each 173 hours of disability credits, rounded to the next highest month. Upon entry into long-term disability, the employee may be paid for the balance of such disability credits under the same terms and subject to the same conditions in effect for payment of sick leave benefits in the employee's agency as of December 31, 1998.

H. Eligibility for participation in the program shall terminate upon the earliest to occur of an employee's (i) termination of employment, (ii) death, or (iii) retirement from service. 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.

§ 51.1-1116. Cessation of disability benefits.

If not sooner terminated due to the end of the period of disability coverage as provided in subsection E of § 51.1-1110 or subsection F of § 51.1-1112, disability benefits shall cease to be paid to a participating employee upon the first to occur of the following:

1. The date of death of the participating employee;
2. (i) The participating employee's normal retirement date, *as defined in § 51.1-124.3, 51.1-201, 51.1-212, or 51.1-301, as applicable*, if the employee is a member of the retirement system or (ii) the date the employee attains age ~~sixty-five~~ 65 if the employee is not a member of the retirement system; or
3. The effective date of the participating full-time employee's service retirement under any provision of this title.

§ 51.1-1117. Service retirement of participating full-time employees receiving disability benefits.

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

674 B. The average final compensation of any participating full-time employee taking a service retirement
675 under any provision of this title shall be equal to his creditable compensation on the date of the
676 commencement of the disability increased by an amount recommended by the program actuary and
677 approved by the Board, from the date of the commencement of the disability to the date of retirement.
678 *This subsection shall not apply to an employee who elects to participate in the optional defined*
679 *contribution retirement plan described in § 51.1-170 prior to the date of the commencement of the*
680 *disability.*

681 C. The creditable service of a participating full-time employee taking service retirement pursuant to
682 this section shall include periods during which the employee received disability benefits. *This subsection*
683 *shall not apply to an employee who elects to participate in the optional defined contribution retirement*
684 *plan described in § 51.1-170 prior to the date of the commencement of the disability.*

685 **§ 51.1-1127. Cessation of supplemental disability benefits.**

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

688 1. The end of the period of supplemental disability coverage as provided in subsection G of
689 § 51.1-1121 or subsection F of § 51.1-1123;

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

691 3. On the date benefits under the Act cease to be paid, if the participating employee is a member of
692 the retirement system and is receiving benefits under the Act on his normal retirement date;

693 4. On the date benefits under the Act cease to be paid, if the participating employee is a not a
694 member of the retirement system and is receiving benefits under the Act on the date he attains age 65;

695 5. On his normal retirement date, *as defined in § 51.1-124.3, 51.1-201, 51.1-212, or 51.1-301, as*
696 *applicable*, if the participating employee is a member of the retirement system and is no longer
697 receiving benefits under the Act on his normal retirement date;

698 6. On the date the employee attains age 65, if the participating employee is a not a member of the
699 retirement system and is no longer receiving benefits under the Act; or

700 7. The effective date of the participating employee's service retirement under any provision of this
701 title.

702 **§ 51.1-1128. Service retirement of participating full-time employees receiving supplemental**
703 **disability benefits.**

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

708 B. The employee's average final compensation shall be equal to his creditable compensation on the
709 date of the commencement of the disability increased by an amount recommended by the actuary of the
710 Virginia Retirement System, and approved by the Board, from the date of the commencement of the
711 disability to the date of retirement. *This subsection shall not apply to an employee who elects to*
712 *participate in the optional defined contribution retirement plan described in § 51.1-170 prior to the date*
713 *of the commencement of the disability.*

714 C. The creditable service of a participating full-time employee taking service retirement pursuant to
715 this section shall include periods during which the employee received supplemental disability benefits,
716 provided that such creditable service shall not include periods for which (i) the employee received
717 supplemental short-term disability benefits, (ii) the employer did not report such creditable service to the
718 retirement system, and (iii) the employee did not purchase such creditable service. *This subsection shall*
719 *not apply to an employee who elects to participate in the optional defined contribution retirement plan*
720 *described in § 51.1-170 prior to the date of the commencement of the disability.*

721 **§ 51.1-1131.1. Employer contributions during disability absences.**

722 Mandatory employer contributions to the defined contribution component of the hybrid retirement
723 program pursuant to subdivision B 2 of § 51.1-169 *or the optional defined contribution retirement plan*
724 *pursuant to subdivision B 1 of § 51.1-170* on behalf of a participating employee shall be made for each
725 employee who is permanently and totally disabled (as defined in § 22(e)(3) of the Internal Revenue
726 Code). The calculation of such contributions shall be based on the full amount of the participating
727 employee's creditable compensation.

728 **§ 51.1-1150. Definitions.**

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

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

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

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

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

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

"Eligible employee" means a person who is (i) not eligible for the disability program pursuant to Chapter 11 (§ 51.1-1100 et seq.) and (ii) participating in the hybrid retirement program described in § 51.1-169 or the optional defined contribution retirement plan described in § 51.1-170.

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

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

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

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

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

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

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

§ 51.1-1153. 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. As the context requires, the term "participating employee" includes the employees of an employer electing not to participate in the program under this subdivision.

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 or the optional defined contribution retirement plan described in § 51.1-170, 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 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.

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

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

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

2. The date of death of the participating employee;

3. The date that the participating employee attains normal retirement age, as defined in § 51.1-124.3, 51.1-201, 51.1-212, or 51.1-301, as applicable; or

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

Notwithstanding the foregoing, an employee who is approved for disability benefits (i) at age 60 through 64 shall be eligible for five years of disability benefits, (ii) at age 65 through 68 shall be eligible for disability benefits to age 70, and (iii) at age 69 or older shall be eligible for disability

benefits for one year. The eligibility periods include short-term disability and long-term disability.

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

C. The average final compensation of any participating full-time employee taking a service retirement under any provision of this title shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the program actuary and approved by the Board, from the date of the commencement of the disability to the date of retirement. *This subsection shall not apply to an employee who elects to participate in the optional defined contribution retirement plan described in § 51.1-170 prior to the date of the commencement of the disability.*

D. The creditable service of a participating full-time employee taking service retirement pursuant to this section shall include periods during which the employee received disability benefits. *This subsection shall not apply to an employee who elects to participate in the optional defined contribution retirement plan described in § 51.1-170 prior to the date of the commencement of the disability.*

§ 51.1-1169. Cessation of supplemental disability benefits; service retirement.

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

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

2. The date of death of the participating employee;

3. On the date the employee attains normal retirement age, *as defined in § 51.1-124.3, 51.1-201, 51.1-212, or 51.1-301, as applicable*; or

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

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

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

C. The employee's average final compensation shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the actuary of the Virginia Retirement System, and approved by the Board, from the date of the commencement of the disability to the date of retirement. *This subsection shall not apply to an employee who elects to participate in the optional defined contribution retirement plan described in § 51.1-170 prior to the date of the commencement of the disability.*

D. The creditable service of a participating full-time employee taking service retirement pursuant to this section shall include periods during which the employee received supplemental disability benefits, provided that such creditable service shall not include periods for which (i) the employee received supplemental short-term disability benefits, (ii) the employer did not report such creditable service to the retirement system, and (iii) the employee did not purchase such creditable service. *This subsection shall not apply to an employee who elects to participate in the optional defined contribution retirement plan described in § 51.1-170 prior to the date of the commencement of the disability.*

§ 51.1-1172. Employer contributions during disability absences.

Mandatory employer contributions to the defined contribution component of the hybrid retirement program pursuant to subdivision B 2 of § 51.1-169 *or the optional defined contribution retirement plan pursuant to subdivision B 1 of § 51.1-170* on behalf of a participating employee shall be made for each employee who is permanently and totally disabled (as defined in § 22(e)(3) of the Internal Revenue Code). The calculation of such contributions shall be based on the full amount of the participating employee's creditable compensation.

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

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

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

necessary to effectuate such long-term care insurance and benefits.

C. Employers of participating employees shall pay to the Board contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term care insurance and benefits for participating employees and (ii) administer the long-term care insurance program, including providing case management and cost containment programs. Contributions shall be deposited in the Hybrid Retirement Program *and Optional Defined Contribution Retirement Plan* Disability Insurance Trust Fund established under § 51.1-1183.

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

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

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

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

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

A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any former state employee, as defined in § 2.2-2818, who retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, 51.1-126.7, ~~or~~ 51.1-169, *or 51.1-170* and who (i) rendered at least 15 years of total creditable service, *employment service, or a combination thereof*, under the Retirement System or (ii) rendered service as a temporary employee of the General Assembly in 1972 and became a member of the retirement system from 1972 to 1985 immediately following such temporary service. The amount of each monthly health insurance credit payable under this section shall be \$4 per year of creditable service, *employment service, or a combination thereof*, which amount shall be credited monthly to any retired state employee participating in the state retiree health benefits program pursuant to § 51.1-1405 or an alternative personal health insurance plan as provided herein. However, such credit shall not exceed the health insurance premium for retiree-only coverage as provided under such alternative personal health insurance plan. Any (i) employee participant pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, or 51.1-126.7 receiving long-term disability, or (ii) retired state employee retired under the provisions of § 51.1-156 or 51.1-307, or (iii) any participating employee receiving long-term disability pursuant to § 51.1-1112, 51.1-1123, 51.1-1157, or 51.1-1165 shall receive a maximum monthly credit which is the greater of (i) \$120, (ii) \$4 per year for each year of creditable service, *employment service, or a combination thereof*, at the time of disability retirement, or (iii) \$4 per year for each year of creditable service, *employment service, or a combination thereof*, at the time of eligibility for long-term disability. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) 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

920 monthly premium deducted from benefits payable to retired state employees in accordance with Chapters
921 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.). In
922 the event that either no benefit is payable or the benefit payable is insufficient to deduct the entire
923 health care premium, the payment of the credit shall be determined in the manner prescribed by the
924 Virginia Retirement System. Eligibility for the credit shall be determined in a manner prescribed by the
925 Virginia Retirement System.

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

931 C. Any person included in the membership of a retirement system provided by Chapter 1
932 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i)
933 rendered at least 15 years of total creditable service, *employment service, or a combination thereof*, as a
934 state employee as defined in § 2.2-2818 and (ii) after terminating state service, was employed by a local
935 government that does not elect to provide a health insurance credit under § 51.1-1401 or 51.1-1402,
936 shall be eligible for the credit provided by subsection A, provided that the retired employee is
937 participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided
938 for in subsection D. In such case, the health insurance credit shall be determined based upon the amount
939 of state service or service as a teacher, whichever is greater.

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

945 E. Notwithstanding anything contained in this section to the contrary, the Virginia Commonwealth
946 University Health System Authority shall pay the cost of coverage for employees of such Authority who
947 (i) retired under the Virginia Retirement System or any retirement system authorized pursuant to
948 § 23.1-2416, 51.1-126, 51.1-126.1, or former § 51.1-126.2; (ii) were employed by such Authority prior
949 to July 1, 1998, and were not subsequently rehired by such Authority on or after July 1, 1998; and (iii)
950 served no less than 15 years of creditable service as regularly employed full-time employees of such
951 Authority or the Commonwealth.

952 **§ 51.1-1401. Health insurance credits for retired teachers.**

953 A. A teacher, as defined in § 51.1-124.3, retired under the Virginia Retirement System, including the
954 hybrid retirement program described in § 51.1-169, and any employee retired under a defined
955 contribution plan pursuant to § 51.1-126.6 or 51.1-170, who rendered at least 15 years of total creditable
956 service, *employment service, or a combination thereof*, under the System or plan shall receive a *monthly*
957 health insurance credit to his ~~monthly retirement allowance~~, which shall be applied to reduce the retired
958 member's health insurance premium cost. The amount of each monthly health insurance credit payable
959 under this section shall be \$4 for each full year of the retired member's creditable service, *employment*
960 *service, or a combination thereof*; however, each former member whose retirement was for disability,
961 any employee participant pursuant to § 51.1-126.6 receiving long-term disability, a participant receiving
962 long-term disability pursuant to § 51.1-1157 or 51.1-1165, or a member of the hybrid retirement
963 program *or the optional defined contribution retirement plan described in § 51.1-170* receiving
964 long-term disability pursuant to coverage under subsection A of § 51.1-1153 shall receive a monthly
965 health insurance credit of \$4 multiplied by the smaller of (i) twice the amount of his creditable service,
966 *employment service, or a combination thereof* or (ii) the amount of creditable service, *employment*
967 *service, or a combination thereof* he would have completed at age 60 if he had remained in service to
968 that age. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement
969 System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be
970 entitled to receive the allowable credit provided by this section on the effective date of his retirement.

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

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

977 D. Any person included in the membership of a retirement system provided by Chapter 1
978 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i)
979 rendered at least 15 years of total creditable service, *employment service, or a combination thereof* as a
980 teacher as defined in § 51.1-124.3 and (ii) after terminating service as a teacher, was employed by a
981 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, *51.1-215*, and 51.1-304; and (iii) prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance program provided for in this section shall be recovered from the health insurance credit trust fund.

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

A. Retired local government employees, whose localities have elected to participate in the Virginia Retirement System, including the hybrid retirement program described in § 51.1-169 *and the optional defined contribution retirement plan described in § 51.1-170*, who have rendered at least 15 years of total creditable service, *employment service, or a combination thereof* under the System shall receive a monthly health insurance credit ~~to 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, *employment service, or a combination thereof*, not to exceed a maximum monthly credit of \$45; however, each former member whose retirement was for disability, a participant receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165, or a member of the hybrid retirement program *or the optional defined contribution retirement plan described in § 51.1-170* receiving long-term disability pursuant to coverage under subsection A of § 51.1-1153 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.

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

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

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

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

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

A. A local officer, as defined in § 51.1-124.3, general registrar, employee of a general registrar, or an employee of a local social services board, retired under the Virginia Retirement System, including the hybrid retirement program described in § 51.1-169 *or the optional defined contribution retirement plan described in § 51.1-170*, who rendered at least 15 years of total creditable service, *employment service, or a combination thereof* under the System shall receive a monthly 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, *employment service, or a combination thereof* not to exceed a maximum monthly credit of \$45; however, each former member whose retirement was for disability, a participant receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165, or a member of the hybrid retirement program *or the optional defined contribution retirement plan described in § 51.1-170* receiving long-term disability pursuant to coverage under subsection A of § 51.1-1153 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, *employment service, or a combination thereof*, not to exceed a maximum monthly credit of \$30. The costs of such additional health insurance credit shall be borne by the locality.

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

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

D. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i) rendered at least 15 years of total creditable service, *employment service, or a combination thereof* 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~~ the retirement system authorized pursuant to § ~~51.1-126, 51.1-126.5, or 51.1-169~~ who is eligible to receive a monthly retirement annuity from that retirement system. *For a participant in any retirement system authorized pursuant to § 51.1-126, 51.1-126.5, or 51.1-170, "state retiree" means a state employee who would otherwise be eligible to receive a monthly retirement annuity under § 51.1-153 based on his date of hire or rehire and length of employment service.*

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 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 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.