

**REPORT OF THE  
VIRGINIA CODE COMMISSION ON**

**The Revision  
of Title 51  
of the Code of Virginia**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 52**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1990**

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**Report of the  
Virginia Code Commission  
on  
The Recodification of Title 51 of the Code of Virginia  
to  
The Governor and the General Assembly of Virginia**

Richmond, Virginia  
January, 1990

TO: The Governor  
and  
The General Assembly of Virginia

House Joint Resolution No. 309 of the 1989 Acts of Assembly directed the Virginia Code Commission to study Title 51 of the Code of Virginia and report its findings in the form of a recodification of the title to the Governor and the General Assembly. Reasons given for the recodification were that Title 51, which consists of the pension and retirement laws of the Commonwealth, has had many changes since the publication of the Code of 1950 and the statutory provisions need to be organized in a clearer and more logical style. In addition, major statutory changes are necessary to bring portions of the Virginia Supplemental Retirement Act into conformance with the Tax Reform Act of 1986.

In accordance with the mandate, the study has been completed. The result is a recodification of Title 51 into a new Title 51.1, comprised of nine chapters. The name of the title was changed from "Pensions and Retirement" to "Pensions, Benefits, and Retirement" because provisions relating to group insurance and deferred compensation have been added to the title since it was originally named. Provisions concerning group insurance and the Government Employees Deferred Compensation Plan Act were taken out of the chapter on the Virginia Supplemental Retirement Act and made into separate chapters because of their distinct subject matter.

In order to comply with the Tax Reform Act of 1986 the basic benefit formula of the retirement system was changed. In addition, differences in treatment for persons becoming members on or before March 31, 1980, and persons becoming members after March 31, 1980, were eliminated. The name of the retirement system was changed from the "Virginia Supplemental Retirement System" to the "Virginia Retirement System" because the retirement system is no longer designed to supplement social security benefits. The benefit structure was also changed in the State Police Officers' Retirement System and the Judicial Retirement System.

Most of current Chapter 3, entitled "Provisions Coordinating Past and Present Security and Retirement Plans" was repealed because many of its provisions dealt with the transfer of funds from the abolished system to the Virginia Supplemental Retirement System or with obtaining retroactive social security coverage. The chapter was renumbered 4 and renamed "Provisions Coordinating Past and Present Retirement Plans" and a new section was added to ensure the retention of rights to benefits for members and former members of all of the retirement systems.

The Commission has rewritten and combined sections or parts of sections to clarify provisions and to eliminate archaic or redundant language and obsolete provisions. Sections that applied to a limited class of people were repealed if they were no longer necessary, moved to proposed Chapter 4, or made into an uncodified act. Numerous sections have been repealed because they are obsolete. References to legislative policy and purpose were deleted or rewritten as specific duties. There is a chapter drafting note at the start of each chapter that explains the changes made in that chapter. Section drafting notes follow each section in proposed Title 51.1 and explain the changes made in that section.

The outline of proposed Title 51.1 and the proposed revision of Title 51 follow this text as Appendix I. Appendix II contains tables that cross-reference the sections of Title 51 with equivalent sections in proposed Title 51.1 and vice versa. Appendix III lists additional sections in the Code of Virginia which must be amended, added, or repealed due to the recodification.

The members of the Code Commission appreciate the time and effort of those who participated in this study, especially the staff of the Virginia Supplemental Retirement System.

The Virginia Code Commission recommends that the General Assembly enact legislation at the 1990 Session to effectuate this revision.

Respectfully submitted,

Dudley J. Emick, Jr., Chairman  
Samuel J. Glasscock, Vice Chairman  
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Joseph V. Gartlan  
John Wingo Knowles  
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TITLE 51.1

PENSIONS, BENEFITS AND RETIREMENT

PROPOSED OUTLINE OF TITLE 51.1

- Chapter 1**      **Virginia Retirement System**
- Article 1*      General Provisions  
*Article 2*      Board of Trustees, Medical Board, and Review Board  
*Article 3*      Investments  
*Article 4*      Membership in Retirement System  
*Article 5*      Participation of Political Subdivisions in Retirement System  
*Article 6*      Creditable Service  
*Article 7*      Contributions  
*Article 8*      Assets of Retirement System  
*Article 9*      Benefits
- Chapter 2**      **State Police Officers Retirement System**
- Chapter 3**      **Judicial Retirement System**
- Chapter 4**      **Provisions Coordinating Past and Present Retirement Plans**
- Chapter 5**      **Group Insurance Program**
- Chapter 6**      **Government Employees Deferred Compensation Plan Act**
- Chapter 7**      **Federal Social Security for State and Local Employees**
- Chapter 8**      **Local Retirement Systems**
- Article 1*      General Provisions  
*Article 2*      Members of Police Departments  
*Article 3*      Counties Having Urban County Executive Form of Government
- Chapter 9**      **Confederate Veterans**

## CURRENT ORGANIZATION OF TITLE 51

### PENSIONS AND RETIREMENT

- Chapter 1**      **Confederate Veterans**
- Chapter 3.1**    **Federal Social Security for State and Local Employees**
- Chapter 3.2**    **Virginia Supplemental Retirement Act**
- Article 1*      **General Provisions**
- Article 2*      **Board of Trustees and Medical Board**
- Article 3*      **Membership in Retirement System**
- Article 4*      **Participation of Localities in Retirement System**
- Article 4.1*    **Participation of Certain Educational Corporations in Retirement System**
- Article 5*      **Statement to be Filed: Creditable Service**
- Article 6*      **Contributions**
- Article 7*      **Assets of Retirement System**
- Article 8*      **Benefits and Conditions Upon Receipt Thereof**
- Article 9*      **Group Insurance for Certain Employees and Officers**
- Article 10*     **Government Employees Deferred Compensation Act**
- Chapter 3.3**    **Provisions Coordinating Past and Present Security and Retirement Plans**
- Chapter 4**      **Officers and Employees of Counties, Cities and Towns**
- Article 1*      **General Provisions**
- Article 2*      **Members of Police Departments**
- Article 3*      **Counties Having County Executive or County Manager Form of Government Under Chapter 13 of Title 15.1**
- Article 4*      **Counties Having Urban County Form of Government Under Article 2 of Chapter 15 of Title 15.1**
- Chapter 6**      **State Police Officers Retirement System**
- Chapter 7**      **Judicial Retirement System**

## CHAPTER 1.

### VIRGINIA RETIREMENT SYSTEM.

**CHAPTER DRAFTING NOTE:** The provisions of this chapter were substantially revised so that its provisions would comply with the Tax Reform Act of 1986. The Internal Revenue Code now restricts the extent to which benefits based on compensation in excess of a breakpoint may be greater than the benefits based on compensation up to that breakpoint. The proposed new integration rules of the Internal Revenue Service also prohibit the offsetting of any benefits directly related to social security benefit payments. Currently the Virginia Supplemental Retirement System's basic benefit formula provides for benefits equal to the greater of 1.50% of all average final compensation or 1.65% of average final compensation in excess of \$1,200 multiplied by the amount of creditable service. For members hired after March 31, 1980, the \$1,200 is indexed in accordance with cost-of-living increases. This structure does not satisfy the requirements of the Internal Revenue Code because a benefit percentage that is applied to compensation in excess of a breakpoint may be only .65% higher than the percentage applied below the breakpoint when a member is age 65. The permitted percentage decreases to .325% at age 55. Therefore, the benefit structure of the retirement system was revised. The basic benefit formula has been changed to 1.50% of the first \$13,200 of average final compensation plus 1.65% of average final compensation in excess of \$13,200, multiplied by the amount of creditable service. This formula is used for service retirement and in addition employees credited with thirty-five or more years of service receive 1.65% of average final compensation multiplied by the amount of creditable service. According to the actuary employed by the Virginia Supplemental Retirement System, the revised benefit formula results in a slightly higher benefit for employees with thirty-five or more years of service but does not change the benefit for other employees.

The basic benefit formula is also used for disability retirement for members with five or more years of creditable service.

Minimum disability benefits and death compensable under the Virginia Workers' Compensation Act have also been changed because they are currently integrated benefits that offset percentages of primary social security benefits. They have been changed to flat percentages without offsets as follows:

Disability not compensable under the Virginia Workers' Compensation Act and not receiving social security – Fifty percent of average final compensation.

Disability not compensable under the Virginia Workers' Compensation Act and receiving social security – Thirty-three and one-third percent of average final compensation.

Disability compensable under the Virginia Workers' Compensation Act and not receiving social security – Sixty-six and two-thirds of average final compensation.

Disability compensable under the Virginia Workers' Compensation Act and receiving social security – Fifty percent of average final compensation.

Death benefits with survivor not receiving social security – Fifty percent of average final compensation.

Death benefits with survivor receiving social security – Thirty-three and one-third percent of average final compensation.

Under the Virginia Supplemental Retirement System the maximum retirement allowance for persons who became members after March 31, 1980, is 62.5% of average final compensation less one-half of the member's primary social security benefit. This provision, which has the effect of stopping benefit accruals for post-March 31, 1980, members after they have completed approximately twenty-eight years of service, will not be permitted under the new integration rules proposed by the Internal Revenue Service. Therefore, the maximum benefit provision has been eliminated.

Currently employer-paid member contributions of employees hired on or before March 31, 1980, are not credited to the member's account and cannot be withdrawn by the member if he terminates employment. Contributions made for members hired after March 31, 1980, are credited to the member's account and also included in the determination of average final compensation and can be withdrawn if the member terminates employment. This bill provides that the employer-paid contributions will be credited to the member's account for all members and eliminates the provision that the employer-paid member contribution will be included in average final compensation for members hired after March 31, 1980.

The Rule of 90 which currently applies to post-March 31, 1980, employees of political subdivisions which have not elected to provide unreduced benefits for retirement at age fifty-five with thirty years of service, is being applied to all employees to make the benefit structure consistent. Currently pre-March 31, 1980, employees receive benefits reduced from the earlier of age sixty-five or sixty with thirty years of service.

The name of the retirement system was changed by deleting "Supplemental" since the retirement system is no longer designed to supplement social security benefits.

There were few changes to the article on investments. The article regarding the participation of political subdivisions in the retirement system was substantially rearranged.

Article 1.

General Provisions.

~~§ 51-111.9. Short title.—The short title of this chapter is “Virginia Supplemental Retirement Act.”~~

DRAFTING NOTE: This section is being repealed because it is the policy of the Code Commission to eliminate short titles.

~~§ 51-111.11 51.1-100 . Virginia Supplemental Retirement System ~~established~~ continued as Virginia Retirement System — There is hereby established The Virginia Supplemental Retirement System, a body corporate and a retirement system for teachers, state employees , and employees of participating political subdivisions to be known as the “Virginia Supplemental Retirement System,” by and in which name it shall, pursuant to the provisions of this chapter, transact all of its business, for which purpose it shall constitute a body corporate. , shall be continued as the Virginia Retirement System. Wherever the term “Virginia Supplemental Retirement System” appears in the Code of Virginia, it shall mean the Virginia Retirement System.~~

DRAFTING NOTE: The word “Supplemental” is deleted from the name of the retirement system since the retirement system is no longer considered to supplement Social Security benefits. This change is made throughout the title.

~~§ 51-111.10 51.1-101 . Definitions ; provisions applicable to persons who were members on March 31, 1980, and certain others .—As used in this chapter , unless a different meaning is plainly required by the context requires a different meaning :~~

~~(1) “Retirement system” means the Virginia Supplemental Retirement System provided for in § 51-111.11;~~

~~(2) “Board” means the board of trustees as provided by § 51-111.17;~~

~~(3) “Medical Board” means the board of physicians as provided by § 51-111.26;~~

~~(4) “Teacher” means any person who is regularly employed full time on a salary basis as a professional or clerical employee of a county, city or other local public school board;~~

~~(5) “State employee” means any person who is regularly employed full time on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, not oftener than biweekly, in whole or in part, by the Commonwealth or any department, institution or agency thereof; “state employee” shall not include the following: (a) any officer elected by vote of the General Assembly or either house thereof, with the exception of any regularly employed full-time salaried officer or employee whose duties are to assist the General Assembly; (b) any local officer as defined in subdivision (21) of this section; (c) any employee of a political subdivision of the Commonwealth; (d) any state police officer of the Department of State Police; (e) any Executive Secretary of the Supreme Court assuming such position between December 1, 1975, and January 31, 1976; or (f) any magistrate, with the exception of those magistrates certified to be serving on a regular full-time basis by the Committee on District Courts pursuant to § 14-1-44.2:1;~~

~~(6) “Employee” means any teacher, state employee, officer or employee of a locality participating in the retirement system as provided in Article 4 (§ 51-111.31 et seq.);~~

~~(7) “Employer” means Commonwealth, in the case of a state employee, the local public school board in the case of a public school teacher, or the locality, participating in the retirement system as provided in Article 4 (§ 51-111.31 et seq.);~~

~~(8) “Member” means any person included in the membership of the retirement system as provided in § 51-111.27 or elsewhere in this chapter; such term shall include any member of the General Assembly serving in such capacity on January 1, 1972, regardless of age;~~

~~(9) “Service” means service as an employee;~~

~~(10) “Prior service” means (i) service as an employee rendered prior to the date of establishment of the retirement system for which credit is allowable under §§ 51-111.30 to 51-111.41:1, 51-111.63 and 51-111.64; (ii) service as an employee for such periods as provided in § 51-111.32, (iii) service as a clerk or employee of a district court for which credit is allowed under § 51-111.10:1 or (iv) service as a special magistrate for which credit is allowed under § 51-111.10:3;~~

(11) "Membership service" means service as an employee rendered while a contributing member of the retirement system except as provided in §§ 51-111.41:1, 51-111.45, 51-111.57, 51-111.62 and 51-111.64;

(12) "Creditable service" means prior service plus membership service for which credit is allowable under this chapter;

(13) "Beneficiary" means any person entitled to receive benefits under this chapter;

(14) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts and also any other amounts he shall have contributed or transferred thereto including interest credited thereon as provided in §§ 51-111.41:1 and 51-111.40;

(15) "Creditable compensation" means the full compensation payable annually to an employee working the full working time for his covered position. In cases where compensation includes maintenance or other perquisites, the Board shall fix the value of that part of the compensation not paid in money; provided that for the purposes of this chapter remuneration received by members of the General Assembly, including all amounts paid to such members in the year 1977, and subsequent calendar years as per diem and monthly expense allowances shall be deemed creditable compensation. In addition, notwithstanding the provisions of subsection (b) of § 51-111.27, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly;

(16) "Average final compensation" means the average annual creditable compensation of a member during his thirty-six highest consecutive months of creditable service or during the entire period of his creditable service if less than thirty-six months. In the event a member ceased employment prior to July 1, 1974, "average final compensation" shall mean the average annual creditable compensation during the five highest consecutive years of creditable service. The creditable compensation assumed to have been received for purposes of purchasing service under the provisions of § 51-111.41:1 or § 51-111.41:4 shall be excluded from a member's average final compensation. If an employee receives increases in compensation in the last four years of service which are not related to promotion and which exceed the average increase received by other employees of the same employer holding comparable positions, such excess shall be excluded when computing the average final compensation if the Board finds after consideration of all circumstances that the primary purpose of such salary increase was given solely to increase the retirement benefit of such employees. If there are no employees of the same employer holding comparable positions, such increases may be excluded from the average final compensation if they exceed the average percentage increase received by all other employees of the same employer;

(17) "Retirement allowance" means the retirement payments to which a member is entitled as provided in this chapter;

(18) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board;

(19) "Normal retirement date" means a member's sixty-fifth birthday;

(20) "Abolished system" means the Virginia Retirement Act, §§ 51-20 to 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952 as of February 1, 1952;

(21) "Local officer" means the treasurer, commissioner of the revenue, Commonwealth's attorney, clerk of a circuit court, sheriff, or constable, of any county or city, or his deputy or employee; and

(22) "Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided. In any case in which the amount of a member's primary old age social security benefit at a date subsequent to such member's date of retirement is pertinent to the computation of benefits under this chapter other than under § 51-111.60:4, the amount of such social security benefit shall be computed as of the date of retirement of the member under the assumption that thereafter the member would have no earnings that would be considered as "wages" for the

**purposes of the federal Social Security Act.**

**"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 members' contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, and all interest accruing 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 thirty-six highest consecutive months of creditable service or during the entire period of his creditable service if less than thirty-six months. If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.**

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

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

**"Creditable compensation" means the full compensation payable annually to an employee working the full working time for his covered position. In cases where compensation includes maintenance or other perquisites, the Board shall fix the value of that part of the compensation not paid in money. Remuneration received by members of the General Assembly pursuant to §§ 14.1-17.1 and 14.1-18 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly.**

**"Creditable service" means prior service plus membership service for which credit is allowable.**

**"Employee" means any teacher, state employee, officer, or employee of a locality participating in the retirement system.**

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

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

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

**"Member" means any person included in the membership of the retirement system.**

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

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

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

**"Prior service" means service rendered prior to becoming a member of the retirement system.**

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

**"Retirement system" means the Virginia Retirement System.**

**"Service" means service as an employee.**



*"State employee" means any person who is regularly employed full time on a salaried basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution, or agency thereof. "State employee" includes the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly. "State employee" shall not include: (i) any local officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) any member of the State Police Officers' Retirement System, or (iv) any member of the Judicial 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.*

DRAFTING NOTE: The definitions have been placed in alphabetical order. The definition of "accumulated contributions" has been changed to include employee contributions paid on behalf of members by their employers. A portion of the definition of "average final compensation" has been made into a new section, proposed § 51.1-152, because it contained material that was not a definition. The word "constable" was deleted from the definition of "local officer" since the term is obsolete. A definition of "political subdivision" is added. The definition is taken from existing § 51-111.31. The definition of "primary social security benefit" was deleted since the Tax Reform Act of 1986 does not permit the integration of social security and retirement benefits. The definition of "prior service" was rewritten and simplified. Credit has already been given to persons falling under (iii) and (iv) of the existing definition of prior service. The exclusions in the definition of "state employee" were revised. The provision that the definition of state employee does not include "any officer elected by vote of the General Assembly or either house thereof, with the exception of any regularly employed full-time salaried officer or employee whose duties are to assist the General Assembly" was eliminated. A provision was added that the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly are state employees. The provision that any Executive Secretary of the Supreme Court assuming the position during a certain time period is not considered a state employee was eliminated and replaced with a provision that any member of the Judicial Retirement System is not considered to be a state employee. The provision that any state police officer of the Department of State Police is not considered a state employee was replaced with a provision that any member of the State Police Officers' Retirement System is not considered a state employee. The provision that magistrates are not considered to be state employees unless they are certified by the Committee on District Courts was eliminated because all magistrates are now certified. Other changes were language revisions only.

§ 51-111.10:01. Same; provisions applicable to persons becoming members after March 31, 1980, and certain others.—(a) As used in this chapter unless a different meaning is plainly required by the context:

(1) "Retirement system" means the Virginia Supplemental Retirement System provided for in § 51-111.11;

(2) "Board" means the board of trustees as provided by § 51-111.17;

(3) "Medical Board" means the board of physicians as provided by § 51-111.26;

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

(5) "State employee" means any person who is regularly employed full time on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, not oftener than biweekly, in whole or in part, by the Commonwealth or any department, institution or agency thereof; "state employee" shall not include the following: (a) any officer elected by vote of the General Assembly or either house thereof, with the exception of any regularly employed full-time salaried officer or employee whose duties are to assist the General Assembly; (b) any local officer as defined in subdivision (21) of this subsection; (c) any employee of a political subdivision of the Commonwealth; (d) any state police officer of the Department of State Police; (e) [Repealed]; or (f) any magistrate, with the exception of those magistrates certified to be serving on a regular full-time basis by the Committee on District Courts pursuant to § 14.1-44.2:1;

(6) "Employee" means any teacher, state employee, officer or employee of a locality participating in the retirement system as provided in Article 4 (§ 51-111.31 et seq.);

(7) "Employer" means Commonwealth, in the case of a state employee, the local public school board in the case of a public school teacher, or the locality participating in the retirement system as provided in Article 4 (§ 51-111.31 et seq.);

(8) "Member" means any person included in the membership of the retirement system as provided in § 51-111.27 or elsewhere in this chapter; such term shall include any member of the General Assembly;

(9) "Service" means service as an employee;

(10) "Prior service" means (i) service as an employee rendered prior to the date of establishment of the retirement system for which credit is allowable under §§ 51-111.30 to 51-111.41:1, 51-111.63 and 51-111.64, (ii) service as an employee for such periods as provided in § 51-111.32, (iii) service as a clerk or employee of a district court for which credit is allowed under § 51-111.10:1, or (iv) service as a special magistrate for which credit is allowed under § 51-111.10:3;

(11) "Membership service" means service as an employee rendered while a contributing member of the retirement system except as provided in §§ 51-111.41:1, 51-111.45, 51-111.57:1, 51-111.63 and 51-111.64;

(12) "Creditable service" means prior service plus membership service for which credit is allowable under this chapter;

(13) "Beneficiary" means any person entitled to receive benefits under this chapter;

(14) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts and also any other amounts he shall have contributed or transferred thereto including interest credited thereon as provided in §§ 51-111.41:1 and 51-111.49;

(15) "Creditable compensation" means the full compensation payable annually to an employee working the full working time for his covered position including any member contributions paid and assumed by an employer pursuant to § 51-111.46:1 (h). In cases where compensation includes maintenance or other perquisites, the Board shall fix the value of that part of the compensation not paid in money; provided that for the purposes of this chapter salary received by members of the General Assembly pursuant to §§ 14.1-17.1 and 14.1-18 shall be deemed creditable compensation. In addition, notwithstanding the provisions of subsection (b) of § 51-111.27, for any member of the General Assembly, creditable compensation shall include the full amount of any salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly;

(16) "Average final compensation" means the average annual creditable compensation of a member during his ~~thirty-six~~ highest consecutive months of creditable service, excluding the creditable compensation assumed to have been received for purposes of purchasing service under the provisions of § 51-111.41:1 or § 51-111.41:4, or during the entire period of his creditable service if less than ~~thirty-six~~ months; however, if an employee receives increases in compensation in the last four years of service, not related to promotion, which exceed the average increase received by other employees of the same employer holding comparable positions, or which, in case there are no comparable positions, exceed the average percentage increase received by all other employees of the same employer, it shall deduct such excess in computing average final compensation if the Board finds after consideration of all circumstances that the primary purpose of such salary increase was given solely to increase the retirement benefit of such employee;

(17) "Retirement allowance" means the retirement payments to which a member is entitled as provided in this chapter;

(18) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board;

(19) "Normal retirement date" means a member's sixty-fifth birthday;

(20) "Abolished system" means the Virginia Retirement Act, §§ 51-30 to 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952 as of February 1, 1952;

(21) "Local officer" means the treasurer, commissioner of the revenue, Commonwealth's attorney, clerk of a circuit court, sheriff, or constable, of any county or city, or his deputy or employee;

(22) "Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided. In any case in which the amount of a member's primary old age social security benefit at a date subsequent to such member's date of retirement is pertinent to the computation of benefits under this chapter other than under § 51-111.55:1, the amount of such social security benefit shall be computed as of the date of retirement of the member under the assumption that thereafter the member would have no earnings that would be considered as "wages" for the purposes of the federal Social Security Act; and

(23) "Average final excess compensation" means the excess of a member's average final compensation over a base amount. With respect to dates of retirement prior to July 1, 1982, such base amount shall be \$1,200. Such base amount shall be adjusted on July 1, 1982, and successively on each July 1 thereafter with respect to dates of retirement on and after each such July 1 by the same percentage by which retirement benefits are adjusted on each such July 1 pursuant to the provisions of § 51-111.60:1 (b).

(b) The provisions of this section shall not apply to any member of the retirement system on March 31, 1980, or to any member whose benefit is based on service rendered prior to that date, except that the provisions setting forth that salary received by members of the General Assembly pursuant to §§ 14.1-17.1 and 14.1-18 shall be deemed creditable compensation and shall apply to all such members on July 1, 1980.

DRAFTING NOTE: This section is being repealed. Because pre and post March 31, 1980, employees will have the same benefit structure, there is no longer a need for separate definitional sections.

§ 51-111.10:1. District court personnel; magistrates—(a) Clerks and other employees of the district courts shall be members of the retirement system subject to the following:

(1) Any clerk or employee of a district court who is a member of the retirement system on June 30, 1973, as a clerk or employee of any district court shall continue as a member, and the establishment of the district court system shall not affect his status in the retirement system.

(2) Any clerk or employee of a district court who is not a member of the retirement system on June 30, 1973, but who is a clerk or employee of a district court and a participant in a local retirement system on that date and who is a state employee as defined in § 51-111.10, may elect to become a member of the retirement system. Any clerk or employee who so elects may transfer from such local system as prior service his creditable service in such local system, in which event the locality operating such system shall transfer to the retirement system all funds contributed on behalf of such clerk or employee, whether contributed by such employee or by such locality.

(3) Any clerk or employee of a district court who is a clerk or employee on June 30, 1973, and who is a state employee as defined in § 51-111.10, but who is not a member of the retirement system or any local retirement system may elect to become a member of the retirement system; provided such election is made while he is so employed.

(4) Any clerk or employee of a district court who becomes a clerk or employee on or after July 1, 1973, and who is a state employee as defined in § 51-111.10 or who became a state employee as defined in § 51-111.10:01 after March 31, 1980, shall become a member of the retirement system.

(5) Any clerk or employee of a district court who on June 30, 1974, was a clerk or employee of a district court in a county having a local retirement system and who on July 1, 1974, became a state employee, as defined in § 51-111.10, the provisions of subdivision (4) of subsection (a) of this section notwithstanding, may elect that his membership be in either the retirement system or such local system.

(i) Any clerk or employee who under such conditions elects to be a member of the retirement system may transfer from such local system as prior service his creditable service in such local system, in which event the locality operating such system shall transfer to the retirement system all funds contributed on behalf of such clerk or employee, whether contributed by such clerk or employee or by such locality.

(ii) Any clerk or employee who under such conditions elects to be a member of such local system may transfer from the retirement system as prior service his creditable service in the retirement system, in which event the retirement system shall transfer to such local system all

funds contributed on behalf of such clerk or employee, whether contributed by such clerk or employee or by the Commonwealth.

~~(iii) The election authorized under this subdivision (5) of subsection (a) shall be exercised by such clerk or employee of a district court by filing written notice of such election with the Board prior to October 1, 1976.~~

~~(b) Any clerk or employee of a district court who is a clerk or employee of a district court June 30, 1973, and a participant in a local retirement system as of that date, but who is not a state employee as defined in § 51-111.10 or does not elect to participate in the retirement system under subdivision (2) above shall continue to be eligible to participate in such local system to the extent of his entire salary.~~

~~(b1) Any magistrate who became a magistrate on or after January 1, 1974, and who is a state employee as defined in § 51-111.10; or who became a state employee as defined in § 51-111.10:01 after March 31, 1980, with the exception of those special magistrates as set forth in § 51-111.10:3, shall become a member of the retirement system.~~

~~(c) The election authorized under subdivisions (2) and (3) of subsection (a) shall be exercised by those electing to become members by filing written notice of such election with the Board prior to October 1, 1973.~~

~~(d) The provisions of this section shall apply, mutatis mutandis, to any probation or social service employee of a district court who becomes a state employee under § 16-1-228 after July 1, 1973. The elections authorized under subdivisions (2) and (3) of subsection (a) shall be exercised within three months of the date such employee becomes a state employee.~~

DRAFTING NOTE: This section is being repealed because it is obsolete. All district court personnel and magistrates certified by the Committee on District Courts are now considered state employees. This section allowed employees to elect to remain with a local retirement system or to transfer to the state retirement system. The time period for making that election has expired.

~~§ 51-111.10:2. Reimbursement by Commonwealth for certain employees remaining in local pension plans. In the case of each person who has elected under § 51-111.10:1 or § 51-111.10:3 to remain a member of a local retirement system, the Commonwealth shall reimburse the local employer contributing to such employee's retirement credit an amount equal to the product of the compensation of such person and the employer contribution rate as used to determine the employer contribution for state employees under §§ 51-111.47 and 51-111.47:01, if applicable.~~

DRAFTING NOTE: This section is being combined with existing § 51-111.47 in proposed § 51.1-145.

~~§ 51-111.10:3. Special magistrates. A. Special magistrates transferring to the state magistrate system on the repeal of § 10-2-40 and §§ 10-2-40 through 10-2-51 shall be members of the retirement system subject to the following:~~

~~1. Any special magistrate who is a member of the retirement system on June 30, 1982, as a special magistrate shall continue as a member, and the abolition of the special magistrate system shall not affect his status in the retirement system.~~

~~2. Any special magistrate who is not a member of the retirement system on June 30, 1982, but who is a special magistrate and a participant in a local retirement system on that date and becomes a state employee as defined in § 51-111.10:01, may elect to become a member of the retirement system. Any special magistrate who so elects may transfer from such local system as prior service his creditable service in such local system, in which event the locality operating such system shall transfer to the retirement system all funds credited on behalf of such special magistrate, whether contributed by such special magistrate or by such locality.~~

~~3. Any special magistrate who is a special magistrate on June 30, 1982, and who becomes a state employee as defined in § 51-111.10:01, but who is not a member of the retirement system or any local retirement system may elect to become a member of the retirement system, provided such election is made while he is so employed.~~

~~4. Any special magistrate who becomes a state magistrate on or after July 1, 1982, and who is a state employee as defined in § 51-111.10:01 shall become a member of the retirement system.~~

~~B. Any special magistrate who is a special magistrate for a local government on June 30, 1982, and a participant in a local retirement system as of that date, but who is not a state employee as defined in § 51-111.10:01 or does not elect to participate in the retirement system,~~

under subdivision 2 above shall continue to be eligible to participate in such local system in accordance with the provisions of the local system.

~~C. The election authorized under subdivisions 2 and 3 of subsection A shall be exercised by those electing to become members by filing written notice of such election with the Board prior to October 1, 1982.~~

~~DRAFTING NOTE: This section is being repealed because it is obsolete. It allowed certain magistrates in Northern Virginia to elect to remain in the local retirement system or transfer to the state retirement system. The time period for making that election has expired and all such personnel are now considered state employees. All magistrates covered by this section are now certified to be state employees by the Committee on District Courts.~~

~~§ 51-111.12. Duties of employers, etc.—Each employer shall keep such records and from time to time shall furnish such information as the Board may require in the discharge of its duties. Upon employment of any employee to whom this chapter may apply, he shall be informed by his appointing authority of his duties and obligations in connection with the retirement system as a condition of his employment.~~

~~DRAFTING NOTE: This section is being combined with existing § 51-111.47 in proposed § 51.1-145.~~

~~§ 51-111.13. Acceptance of employment as consent to provisions of chapter.—Every employee accepting employment shall be deemed to consent and agree to any deductions from his compensation required by this chapter and to all other provisions thereof.~~

~~DRAFTING NOTE: This section is being combined with existing § 51-111.46 in proposed § 51.1-144.~~

~~§ 51-111.15 51.1-102 . Exemption of assets from taxation; exemption of benefits and assets from execution and assignment ; trust funds; unclaimed property .—The assets of the retirement systems created under the provisions of Chapter 3.2 (§ 51-111.9 et seq.) or Chapter 6 (§ 51-143 et seq.) of Title 51 this title are hereby exempted from any state, county, or municipal tax. Retirement allowances and other benefits accrued or accruing to any person under the provisions of Chapter 3.2 (§ 51-111.9 et seq.) or Chapter 6 (§ 51-143 et seq.) of Title 51 this title and the assets of the retirement systems created under these chapters this title shall not be subject to execution, attachment, garnishment , or any other process whatsoever, except any process for a debt to any agency which employer who has employed such person, nor shall any assignment thereof be enforceable in any court. The assets of the retirement systems administered by the Board are trust funds and shall be used solely for the benefit of members and beneficiaries and to administer the retirement systems and shall not be subject to appropriation by the General Assembly. The Board shall establish procedures whereby persons entitled to property held by the Board, which would be presumed abandoned under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.), may recover it.~~

~~DRAFTING NOTE: Currently this section exempts only the assets of VSRS and SPORS. The wording was changed to "this title" so that JRS would be included in the exemption. The first added sentence is from existing § 51-111.24. The second added sentence is existing § 51-111.26:1. Both sentences are rewritten.~~

~~§ 51-111.22:2 51.1-103 . Disclosure of social security account numbers.— Notwithstanding any other provision of law, the The retirement system may ; in accordance with its present practice, continue to require the disclosure of the social security account number of any employee, judge, or other person covered under this title, to be used for any purpose relating to the administration of the retirement systems or the implementation of this title.~~

~~DRAFTING NOTE: No change in the law.~~

~~§ 51.1-104. Benefits to be paid monthly.—All benefits payable by the retirement system shall be paid in equal monthly installments, unless the Board approves another method of payment.~~

~~DRAFTING NOTE: This is existing § 51-111.71. It has been rewritten so that it applies to all benefits payable by the retirement system.~~

~~§ 51-111.16 51.1-105 . Alteration; amendment or Distribution of assets upon repeal of system . — (a) The General Assembly reserves the right to alter, amend or repeal any provision of this chapter or any application thereof to any person; however, the amount of benefits, to the extent provided under subsection (c) of this section, which at the time of any such alteration, amendment or repeal shall have accrued for the members or beneficiaries shall not be affected thereby. No provision of this chapter shall be altered or amended unless and until the General Assembly has been provided with an actuarial statement as to the immediate and long-term effect that the implementation of such alteration or amendment would have on the state's contribution requirements under § 51-111.47 and under § 51-111.47:01. Unless otherwise specifically stated, legislation which effects a change in the amount of a retirement benefit other~~

than a post-retirement supplement, under this chapter or Chapter 6 (§ 51-143 et seq.) or Chapter 7 (§ 51-160 et seq.) of this title shall be construed to affect only the benefits of those persons who qualify for an annuity on or after the effective date of such legislation.

(b) A. If the General Assembly repeals the provisions of this chapter or terminates the application thereof to any person, the Board shall continue to administer the retirement system in accordance with the provisions of this chapter for the sole benefit of the then members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits in accordance with subsection (a) (2) of § 51-111.60 under a joint and last-survivor option who are designated by any of said members a member.

(c) In the event of B. Upon repeal or termination as provided in subsection (b) of this section of the retirement system, the assets of the retirement system shall be allocated by the Board in an equitable manner to provide benefits for the persons stated in subsection (b) A of this section in accordance with the provisions of this chapter but based on years of creditable service and average final compensation as of the date of repeal or termination and in the following order:

(1) 1. For the benefit of then members to the extent of their individual account in the members' contribution account. If any funds remain, then

(2) 2. For the benefit of then beneficiaries and persons already designated by former members who are then beneficiaries in accordance with subsection (a) (2) of § 51-111.60 under a joint and last-survivor option, to the extent of the then actuarial value of their retirement allowances. If any funds remain, then

(3) 3. For the benefit of members, and persons, if any, designated by them in accordance with subsection (a) (2) of § 51-111.60 under a joint and last-survivor option, to the extent, not provided under (1) subdivision 1 above, of the then actuarial value of their accrued future retirement allowances. The allocation under this subdivision (3) shall be the basis of the oldest ages first method.

In the event the assets at such date of repeal are insufficient to provide all of the benefits of (1) and/or (2) above, then the employer will contribute to the assets from time to time, as and when required, the amount necessary to make up such insufficiency. The employer is required to contribute the amount necessary to make up any insufficiency of assets needed to provide all benefits payable under 1 and 2 above.

(d) C. The allocation of assets of the retirement system provided for in subsection (c) of this section shall be carried out through the payment by the Board of the benefits provided for in this section as they the benefits become due; or by the transfer of such assets to any retirement system replacing this retirement system provided that such. The vesting of benefits as provided by this section shall be fully maintained under such the new retirement system. Any funds remaining in the assets of this retirement system after all of the vested benefits provided by this section have been paid shall revert to the general funds fund.

(e) D. Any allocation of assets made in accordance with the provisions of this section shall be final and binding on all persons entitled to benefits under said provisions.

DRAFTING NOTE: The General Assembly has the right to amend this chapter without statutory authorization and without an actuarial statement so those provisions were deleted. Other portions of the section were rewritten. The last sentence of existing subsection (a) is proposed § 51.1-106.

§ 51.1-106. Persons affected by changes in retirement benefits.—Unless otherwise specifically stated, legislation which effects a change in the amount of a retirement benefit other than a post-retirement supplement shall be construed to effect only the benefits of those persons who qualify for a retirement allowance on or after the effective date of the legislation.

DRAFTING NOTE: This section is from existing § 51-111.16.

§ 51-111.67 51.1-107 . Changes or errors in records resulting in erroneous payments.— (a) Should If any change or error in records result results in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive from the retirement system had the records been correct, then on discovery of any such error the Board shall correct the same, error and as far as practicable shall adjust the payments in such a manner so that the actuarial equivalent of the correct benefit to which such member or beneficiary was correctly entitled shall be paid.

If a member has been overpaid through no fault of his; and could not reasonably have



been expected to detect the error ; the Board may waive any repayment which it believes would cause hardship.

(b) Upon determination that any person has erroneously been included in membership in the retirement system, ~~accumulated contributions and interest credited under the provisions of the abolished system or of § 51-111.49 resulting from the erroneous membership shall be refunded.~~

DRAFTING NOTE: Language revisions only.

~~§ 51-111.14 51.1-108 . Protection against fraud Falsification of records; penalty .—Any person who shall knowingly make makes any false statement or shall falsify falsifies or permit to be falsified permits the falsification of any record or records of the retirement system record in any attempt to defraud such the retirement system ; shall be guilty of a Class 1 misdemeanor and upon conviction thereof shall be punished accordingly .~~

DRAFTING NOTE: Since the class of misdemeanor was not specified, language was added stating that the offense is a Class 1 misdemeanor.

## Article 2.

### Board of Trustees, Medical Board, and Review Board.

~~§ 51-111.18 51.1-109 . Board of Trustees continued; members of Board ; powers of former retirement system .—The Board of Trustees of the Virginia Retirement System is continued and shall consist of seven members to be appointed by the Governor, subject to confirmation by the General Assembly. Of such members , one shall be an official within the executive branch of the state government, one a teacher, one a state employee, one an employee of a political subdivision participating in the retirement system, and the others neither teachers nor state employees nor otherwise in the employ of any government. All such appointees shall have a significant background in one or more of the following fields: finance, accounting, investments, private business, education , or personnel. Members shall be appointed by the Governor for a term of six years -year terms with members leaving the Board on a staggered basis. Until the appropriate staggering of terms can be implemented, a one-time the schedule established herein below shall be followed:~~

1. The official within the executive branch and the political subdivision employee of a participating locality, whose terms would have expired in 1989, shall have their terms extended until June 30, 1991;

2. Members whose terms would have expired in 1990 shall have their terms extended until June 30, 1992;

3. Members whose terms would have expired in 1991 shall have their terms extended until June 30, 1993; and

4. Members whose terms would have expired in 1992 shall have their terms extended until June 30, 1994.

*The terms of Board members serving on July 1, 1989, shall automatically be extended as provided in the above schedule. Thereafter, all terms shall begin on July 1.*

~~Every appointment Appointments to fill a vacancy vacancies shall be for the unexpired term terms . No member other than the executive branch official shall be eligible to serve for or during more than two successive six-year terms ; but after . After the expiration of the remainder of an unexpired term to which appointed, a member may serve two additional six-year terms may be served by such a member if appointed thereto . The Governor may suspend or remove any member for malfeasance, misfeasance, incompetency, misconduct, neglect of duty , or conflict of interest. The Board shall be vested with the powers and duties of the Board of Trustees of the abolished system to the extent such powers and duties were created or continued by the act abolishing the said system; or by other legislation; thereupon the Board of Trustees of the abolished system shall be terminated.~~

~~The current terms of members serving on the Board of Trustees as of July 1, 1980, shall automatically be extended as provided in the above one-time schedule, and thereafter all terms shall begin on July 1. Periodically the Governor shall designate the chairman of the Board. The Board shall elect one of its members as vice chairman and appoint a secretary who may or may not be a member of the Board.~~

~~A majority of the members of the Board shall constitute a quorum. Members of the Board of Trustees shall be reimbursed for actual expenses of attending its Board meetings and shall~~

receive compensation at the per diem rate established for members of the General Assembly , subject to the provisions of § 14.1-18 .

DRAFTING NOTE: Language regarding the Board of Trustees of the abolished system was stricken and similar language was included in proposed § 51.1-110. Language regarding the extension of terms was moved within the section for better arrangement. The second and third added sentences are moved from existing § 51-111.20 and the language is revised. The fourth added sentence is moved from existing § 51-111.19.

~~§ 51-111.17~~ **51.1-110 . Board to administer retirement system ; powers and duties .--** A. The retirement system shall be administered by a ~~board of trustees to be known as the " Board of Trustees of the Virginia Supplemental Retirement System,"~~ which Board is hereby established. , which shall have the power and duty to:

1. *Appoint a director, who shall not be a member of the Board, to serve as the chief administrative officer of the retirement system.*

2. *Maintain records of all of its proceedings and make such records available for inspection by the public.*

3. *Employ an actuary as its technical advisor, and employ other persons and incur expenditures as it deems necessary for the efficient administration of the retirement system.*

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

5. *Biennially cause an actuarial valuation to be made of the assets and liabilities of the retirement system with respect to each employer. Pursuant to the results of such valuations, the Board shall prepare a statement as to the employer contribution rates applicable to each employer.*

6. *Publish the results of each actuarial valuation of the assets and liabilities.*

7. *Publish an annual statement of the receipts and disbursements and of the current investments of the retirement system.*

8. *Promulgate regulations and procedures and make determinations necessary to carry out the provisions of this title.*

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

DRAFTING NOTE: The last sentence of existing § 51-111.20 has been rewritten and included in this section. Existing §§ 51-111.21, 51-111.22, 51-111.22:1, and 51-111.23 have also been rewritten and included in this section. Subsection B is from existing § 51-111.18 and subsection (j) of existing § 51-111.68.

~~§ 51-111.19: Quorum.--~~A majority of the members of the Board shall constitute a quorum.

DRAFTING NOTE: This section has been included in proposed § 51.1-109.

~~§ 51-111.20: Officers of Board; director of system.--~~The Governor shall, from time to time, designate the chairman of the Board. The Board shall elect one of its members vice-chairman, and shall appoint a secretary who may or may not be a member of the Board. The Board shall appoint a director to serve as the chief administrative officer of the retirement system who shall not be a member of the Board.

DRAFTING NOTE: The first sentence is moved to proposed § 51.1-109. The second sentence is moved to proposed § 51.1-110.

~~§ 51-111.21: Actuary and other employees.--~~The Board shall employ an actuary as its technical advisor, and may employ such other persons and incur such expenditures as it deems necessary for the efficient administration of this chapter. The compensation of the actuary and of other employees shall be fixed by the Board within the appropriations made therefor and subject to the current provisions of law as to compensation of officers and employees of the Commonwealth.

DRAFTING NOTE: The first sentence of this section is included as subdivision 3 of proposed § 51.1-110. The second sentence is stricken because it is not necessary to state that the Board



has the authority to set compensation.

~~§ 51-111.22. Actuarial investigations, valuations, gain/loss analyses, etc.—At least once in each five-year period, the Board shall cause an actuarial investigation to be made of all of the experience under the retirement system. Effective July 1, 1976, the Board shall also cause actuarial gain/loss analyses to be made in conjunction with each actuarial valuation of the system. Pursuant to such investigations and analyses, the Board shall, from time to time, revise the actuarial assumptions used in the computation of the rates of employer contributions prescribed under this chapter.~~

~~The Board shall cause an actuarial valuation to be made of the assets and liabilities of the retirement system no less frequently than biennially with respect to each employer. Pursuant to the results of such valuations, the Board shall prepare a statement as to the employer contribution rates applicable to each employer.~~

~~The Board shall publish the results of each such actuarial valuation of the assets and liabilities. The Board shall also publish annually a statement of the receipts and disbursements and of the current investments of the retirement system. Copies of any such statements may be obtained at cost by any person.~~

DRAFTING NOTE: This section is included as subdivisions 4, 5, and 6 of proposed § 51.1-110. The reference to July 1, 1976, in the first paragraph was removed.

~~§ 51-111.22:1. Board may promulgate regulations.—The Board is authorized to promulgate such regulations and procedures and make such determinations as may be necessary and proper to give effect to the intent, purposes and provisions of this title.~~

DRAFTING NOTE: This section is included as subdivision 8 of proposed § 51.1-110.

~~§ 51-111.23. Record of proceedings; public inspection.—The Board shall keep a record of all of its proceedings and such record shall be open to inspection by the public.~~

DRAFTING NOTE: This section is included as subdivision 2 of proposed § 51.1-110.

~~§ 51-111.25 51.1-111 . Prohibited interest of member or employee of Board.— No member of the Board and no employee of the Board shall have any interest, direct or indirect, in the gains or profits of any investment made by the Board, save insofar as any such member may be a member or beneficiary of the retirement system, and no member of the Board shall receive, directly or indirectly, any pay or emolument for his services except as expressly provided in this chapter. No member of the Board or employee thereof shall, directly or indirectly, for himself or as an agent, in any manner use the funds or deposits of the retirement system, except to make such payments therefrom as are authorized by the Board; nor shall any member or employee of the Board become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the Board. Except as provided in this chapter, no member of the Board shall receive any compensation for his services. No member of the Board and no employee of the Board shall:~~

*1. Have any direct or indirect interest in the gains or profits of any investment made by the Board except by virtue of being a member or beneficiary of the retirement system.*

*2. Use the funds or deposits of the retirement system in any manner except to make payments authorized by the Board.*

*3. Become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the Board.*

DRAFTING NOTE: This section was rewritten for clarity.

~~§ 51-111.26 51.1-112 . Medical Board.— (a) A. The Board shall employ a Medical Board of three physicians who are not eligible to participate in the retirement system. Each such physician shall be employed for a term of four years -year term to commence at the expiration of the term of his predecessor in office, except that employment . Employment to fill a vacancy shall be for the unexpired portion of the four-year period term . The Medical Board shall appoint three physicians, subject to confirmation by the Board, who may be called upon from time to time to serve as substitutes when a member or members of the Medical Board cannot serve in their official capacity. The Board may employ members Members of the Medical Board and their substitutes thereof shall serve at its the pleasure and fix their compensation of the Board .~~

*B. The Medical Board shall pass upon all :*

*1. Review all reports of medical examinations required by this chapter or required in*

connection with the abolished system, shall investigate .

2. Investigate all essential health and medical statements and certificates by or on behalf of a member filed in connection with disability retirement ; and shall report in writing .

3. Submit to the Board a written report of its conclusions and recommendations upon on all matters referred to it.

(b) C. The Medical Board, its substitutes and its employees shall not be held personally liable for conclusions, advice , or recommendations made in accordance with the duties of the Medical Board under the provisions of this title.

DRAFTING: Language revisions only.

~~§ 51-111.26:1. Procedures for payment of unclaimed benefits and contributions.—With respect to any funds or property held by the Board which would be presumed abandoned pursuant to Chapter 11.1 (§ 55-210.1 et seq.) of Title 55, the Board shall promulgate regulations and procedures whereby persons entitled thereto may recover the same.~~

DRAFTING NOTE: This section has been included in proposed § 51.1-102.

~~§ 51-111.26:2 51.1-113 . Retirement System Review Commission continued as Retirement System Review Board.— A. The Retirement System Review Commission is continued and shall hereafter be known as the Retirement System Review Board . The Review Board is continued and shall consist of seven members ; all of whom shall be appointed by the Governor for four-year terms , subject to confirmation by each House of the General Assembly. Each member shall be appointed for a term of four years; however, of the members comprising the initial Review Board, two shall be appointed for a two-year term, two for a three-year term and three for a four-year term. The Governor shall also appoint the Chairman chairman of the Review Board. Every appointment to fill a vacancy on the Review Board shall be for the unexpired term. No member shall be eligible to serve for or during more than two successive four-year terms. Each member of the Review Board shall have experience in the fields of pensions, investments, actuarial science , or pension law. Members of the Review Board shall be entitled to compensation, as provided in § 14.1-18, and reasonable and necessary expenses incurred in the performance of their duties. It shall be the responsibility of the~~

~~B. The Review Board shall review and evaluate all proposed changes in the Virginia Supplemental Retirement System and other retirement systems administered by the Board of Trustees. In evaluating such proposed changes , the Review Board shall determine the actuarial impact, financial impact, and legal sufficiency of the proposed change and the comparability of such change to the provisions of other retirement systems and promptly submit its findings to the General Assembly.~~

~~C. The Virginia Supplemental Retirement System shall provide staff, actuarial data , and other required support services to the Review Board.~~

DRAFTING NOTE: Language regarding initial terms was deleted because it is obsolete.

### Article 3.

#### Investments.

~~§ 51-111.24 51.1-114 . Board as trustee of funds; investments; liability for losses.— (a) A. The Board shall be the trustee of the several funds created by this chapter of the retirement systems that it administers and of those resulting from the abolition of the Virginia Retirement System abolished system . Such funds are trust funds and shall not be subject to appropriation by the General Assembly. The Board shall have full power to invest and reinvest such funds, subject to the limitation that no investment shall be made except, upon the exercise of bona fide discretion, in securities permitted by provisions of this chapter.~~

~~The Board may also, in its discretion, invest such trust funds in first deeds of trust on residential real property limited to twenty per centum percent of total trust fund investments based on cost. Subject to such limitations, the Board shall have full power to hold, purchase, sell, except as limited by § 2.1-187, assign, transfer , or dispose of ; any of the securities or investments in which any of the trust funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.~~

~~The Board may also ; in its discretion, invest such trust funds in bonds, notes , and other evidences of debt of school boards held in the Literary Fund evidencing loans made from such the Literary Fund by the Board of Education pursuant to the provisions of Chapter 10 (§ 22.1-142 et seq.) of Title 22.1 and the . The Board of Education is hereby authorized to assign~~

such bonds, notes , and other evidences of debt to the Board whenever the Board desires to invest any of such the trust funds therein and the State Board of Education consents thereto ; and when . When such bonds, notes , or other evidences of debt are so acquired by the Board the same , they may not be sold or otherwise disposed of except to a state governmental agency.

~~(b) Repealed.~~

~~(e) B.~~ The Board shall have the power to borrow money from time to time in such amounts as may be necessary to discharge current obligations under this chapter whenever in its judgment by so doing it would be more advantageous to borrow money than by selling to sell securities held by the retirement system. Any debt so incurred may be evidenced by notes duly authorized by resolution of the Board, but in no case is the due date of any note ; notes or other evidence of debt to be beyond the end of the biennium succeeding the biennium in which such the debt is incurred. Securities held by the retirement system may be hypothecated by the Board as security for the payment of any debt incurred under this section.

~~(d) C.~~ The Board is specifically authorized, subject to and in conformity with the provisions of Chapter 6 (§ 15.1-228 et seq.) of Title 15.1 ; as amended , to contract with school boards to lend them money belonging to the several funds administered by the Board and in hand for investment, for capital projects for school purposes. The Board is further authorized to invest in bonds issued by the Virginia Education Loan Authority in conformity with the provisions of Chapter 4.3 (§ 23-38.30 et seq.) of Title 23.

~~(e) D.~~ The Board , upon appropriate resolution , may loan or invest not more than the aggregate of five per centum percent of total trust fund investments based on cost and described in this chapter in obligations not otherwise permitted under this chapter. In the event If an obligation is determined subsequent to acquisition to be qualified as an investment under this chapter other than under this subsection, the Board may consider the investment as held under such the other applicable provisions of this chapter and such the investment shall no longer be considered as having been made under this subsection.

~~(f) E.~~ The Board shall have the power, with the approval of the Governor, to invest in real estate to be held as a nonrevenue producing asset and used by the retirement system for administrative offices.

~~(g) F.~~ The Board shall have the power, on request of the Governor or the General Assembly, to make investments invest in real estate in accordance with §§ ~~51-111-24:6 and 51-111-24:7~~ 51.1-120 and 51.1-121 . Total investment in such property under the authority of this subsection shall not exceed \$100 million.

~~(h) G.~~ No member of the Board, nor any member of the Investment Advisory Committee, shall be personally liable for losses suffered by the retirement system on investments made under the authority of this chapter.

DRAFTING NOTE: The stricken sentence in subsection A is moved to proposed § 51.1-102. Other changes are language revisions only.

*§ 51.1-115. Pooling of assets for investment.—The Board may invest the assets of the Virginia Retirement System, the State Police Officers' Retirement System, and the Judicial Retirement System on a pooled or consolidated basis. The Board shall maintain a separate accounting of the funds of each of the retirement systems.*

DRAFTING NOTE: This section is subsection (b) of existing § 51-149 and subsection (b) of existing § 51-166.

~~§ 51-111-24:2~~ 51.1-116 . Standard of judgment and care required in making investments; authorized investments ; exemption from Public Procurement Act .—Except with respect to the securities described in this chapter, in acquiring, investing, reinvesting, exchanging, retaining, selling , and managing property for the benefit of the fund, the Board shall exercise the judgment of care under the circumstances then prevailing, which men of prudence, discretion , and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the Board is authorized to acquire and retain every kind of property and every kind of investment, specifically including but not by way of limitation, limited to debentures and other corporate obligations of foreign or domestic corporations and common or preferred stocks traded on foreign or domestic stock exchanges limited to sixty percent of total trust fund investments based on cost, and securities of any open-end or closed-end management type investment company or investment trust registered under the federal Investment Company Act of 1940, as amended,

which men of prudence, discretion, and intelligence acquire or retain for their own account; and within. Within the limitations of the foregoing standard, the Board may retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase.

The selection of services related to the management, purchase, or sale of authorized investments, including but not limited to actuarial services, shall be governed by the foregoing standard and shall not be subject to the provisions of Chapter 7 the Virginia Public Procurement Act (§ 11-35 et seq.) of Title 11 of the Code of Virginia.

DRAFTING NOTE: No change in the law.

~~§ 51-111.24:1~~ 51.1-117. Certain investments specifically authorized.—The Board is specifically authorized to invest in the following securities and other investments, which are and shall be considered lawful investments:

1. United States obligations. - The Board may invest its trust funds in bonds, notes, warrants, and other securities which are direct obligations of the United States of America, or any agency or instrumentality thereof, or for which the full faith and credit of the United States of America, or any agency or instrumentality thereof, is pledged for the payment of principal and interest.

2. Canadian obligations. - The Board may invest not more than ten percent of its trust funds in the bonds, notes, warrants or, and other securities of Canada, or of any province thereof, or of any municipality in Canada having a population of at least 100,000, or in any bonds fully guaranteed as to payment of principal and interest by Canada, or any province thereof, if such (i) the bonds are payable both as to principal and interest in lawful money of the United States or of Canada, if they (ii) the bonds are rated "A" by at least two nationally recognized rating agencies, and if (iii) within the seven years immediately preceding the date of the proposed investment there has been no default on the part of the issuing governmental unit in the payment of principal or interest of any of its bonds or other securities.

3. Securities of International Bank obligations. - The Board may invest not more than five percent of its trust funds in obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development.

4. Securities of Inter-American Development Bank obligations. - The Board may invest not more than five percent of its trust funds in obligations issued, assumed, or guaranteed by the Inter-American Development Bank.

5. Obligations of Asian Development Bank obligations. - The Board may invest not more than five percent of its trust funds in obligations issued, assumed, or guaranteed by the Asian Development Bank.

6. Transportation equipment trust certificates. - The Board may invest not more than ten percent of its trust funds in adequately secured equipment trust certificates or other adequately secured instruments evidencing an interest in transportation equipment wholly or partly within the United States; and a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use or purchase of such transportation equipment.

7. Securities of corporations Corporate securities. - The Board may invest its trust funds in interest-bearing bonds or other evidences of indebtedness of any solvent company; which is incorporated under the laws of the United States, or any state thereof, or Canada, or any province thereof, if:

a. Such (i) the corporation has not during any time within seven years next immediately preceding such the date of the proposed investment defaulted in the payment of interest on such bonds; and

b. For each of the seven fiscal years preceding such investment, (ii) the net annual income of such the corporation, for each of the seven fiscal years immediately preceding the proposed investment, before interest charges but after taxes, excluding United States and state corporate income taxes, and after deducting proper charges for replacements, depreciation, and obsolescence; has been at least two times the total annual interest charges; or, in the case of the issuance of new bonds, such the net annual income for the seven years preceding such the investment has been at least two times the pro forma annual total interest; and

e. Such (iii) the bonds are payable both as to principal and interest in lawful money of the United States.

8. Notes and bonds of the Virginia Housing Development Authority *notes and bonds* . - The Board may invest its trust funds in notes and bonds issued by the Virginia Housing Development Authority in conformity with the provisions of Chapter 1-2 *Virginia Housing Development Authority Act* (§ 36-55.24 et seq.) of Title 36 .

9. Obligations of African Development Bank *obligations* . - The Board may invest not more than five percent of its trust funds in obligations issued, assumed , or guaranteed by the African Development Bank.

10. Investments that cease to be eligible may be retained. - Investments made under the provisions of this chapter, if in conformity with the requirements of this chapter at the time the investments were made, may be retained even though they cease to be eligible for purchase under the provisions of this chapter, unless the exercise of reasonable care requires the sale or other disposition of such investments.

DRAFTING NOTE: Subdivision 10 is made into a separate section, proposed § 51.1-123. Other changes are language revisions only.

§ 51-111.24:3 *51.1-118* . Investment of trust funds in prime quality commercial paper.— A. The Board may properly and legally invest not more than thirty-five per centum percent of those trust funds designated for investment in securities with maturities of less than two years in prime quality commercial paper, with a maturity of 270 days or less, of issuing corporations organized under the laws of the United States, or of any state thereof , including paper issued by banks and bank holding companies. “Prime quality” shall be as rated by the Moody’s Investors Service, Inc., within its NCO/Moody’s ratings of prime 1 or prime 2 or , by Standard & Poor’s , Inc., within its ratings of A-1 or A-2, or by Fitch Investors Service within its ratings of F-1 and F-2 ; or by their corporate successors ; provided, however, that . However, at the time of any such investment:

1. The issuer, or parent company in the case of paper issued by finance subsidiaries, excluding banks, bank holding companies , and companies engaged in the business of furnishing public electricity or telephone service, *has must have* a ratio of current assets to current liabilities, including that portion of long-term debt maturing within one year, of at least one and one-half to one ; except that, if the issuer or parent company has total assets of at least \$250 million, such ratio is *must be* at least one and one-fourth to one; *and*

2. The issuing corporation *has must have* a net worth of at least fifty million dollars; *and*

3. The net income of the issuing corporation *has must have* been at least three million dollars per year for the previous five years; and

4. All existing senior bonded indebtedness of the issuer is *must be* rated “AA” or better by at least two of either Moody’s Investors Service, Inc., Standard & Poor’s , Inc., or Fitch Investors Service.

B. The Board shall select and approve, with such other restrictions as it may deem advisable, the commercial paper of issuing corporations which are otherwise qualified under this section *and no* . No investment shall be made unless *such the* commercial paper has been approved by the Board and *such* approval has not been withdrawn as of the date of the investment.

DRAFTING NOTE: No change in the law.

§ 51-111.24:5 *51.1-119* . Investment in certain port facilities.—A. Whenever the Governor *shall* be is of the opinion that there is a need for additional port facilities and has received an opinion *that such need exists* from the Virginia Port Authority *that such a need exists* , he may, with the concurrence of the Authority, approve a suitable site or sites owned by the Commonwealth, the Authority , or any local port authority created by the General Assembly on which a port facility may be constructed or *addition or* additions may be made to an existing facility ; *and the* . The Governor or , Authority , or local port authority may, without rent and for a period not to exceed ninety-nine years, lease such site or sites to the Virginia Supplemental Retirement System, hereinafter referred to as the System Board . Any such lease may be made subject and subordinate to any pledge, lien, encumbrance , or contractual obligation then in force, respecting the site or sites *thus* leased, securing bonds issued by the Authority or local port authority.

B. The System Board is authorized to construct on *such site or sites that may be* leased to it, in conformity with plans and specifications approved by the Authority, *one or more* port facilities or *addition or* additions thereto. The amount that may be invested by the System Board for that purpose shall not exceed fifteen million dollars.

C. The Authority or local port authority shall pay to the ~~System~~ Board from any funds lawfully made available therefor, including revenues derived from the respective facility or facilities and appropriations from time to time made by the General Assembly, an annual rental in an amount to be determined by the Board ; ~~such rental to~~ . *The rental shall be fixed and adjusted in with respect to the total investment of the System Board in such the facility or facilities* so as to provide a rental income to the ~~System~~ Board sufficient to restore to it the total investment in ~~such the facility or facilities~~ within a period not exceeding twenty years from the time ~~such the facility or facilities are~~ is completed and are suitable for occupancy, and also to provide to the ~~System Board~~ annual interest charges at the prevailing rate of interest on the total investment of the ~~System Board~~ in ~~such the facility or facilities~~ at the time of the ~~System Board~~ investment in ~~such the facility or facilities~~, provided that the . *The prevailing interest rate on investments in such facilities held by the System Board on June 30, 1982, shall be construed to mean the interest rate initially set for such facilities.*

D. ~~“Total investment,”~~ as ~~As~~ used in this section, shall include. *“total investment” includes loss of income to the System Board upon construction costs incurred during the erection of such the facility or facilities . Whenever When the System Board has recovered the amount of its total investment in such the facility or facilities and the interest thereon, the lease for such the site or sites shall thereupon terminate and the real estate and the improvements thereon shall thereupon revert to and be the property of the Commonwealth, Authority , or local port authority, free from the provisions of such lease.*

E. The Board shall not at any time be responsible for the maintenance and operation of ~~such any facility or facilities~~ that it ~~may construct~~ *constructs* under the provisions of this section.

F. The Authority, or any local port authority with the approval of the Authority, and the Board are authorized to enter into contractual arrangements for financing additional port facilities upon ~~such mutually satisfactory terms and conditions as are mutually satisfactory,~~ and pursuant thereto the ~~System~~ . *The Board and the Authority, or any such local port authority, may agree as to the construction, ownership , or leasing of any such facilities by the System or Board, the Authority, or any such local port authority, or any combination thereof, and said the Authority ; or any such local port authority may issue its bonds under applicable law to pay the cost of any part of such facilities.*

DRAFTING NOTE: “System” changed to “Board.” Language revisions only.

§ ~~51-111.24:7~~ 51.1-120 . Investment in sites and buildings for use of General Assembly and state agencies.—A. Whenever a majority of the members of the Committees on Rules of the House of Delegates and the Senate, acting in concert, ~~shall be~~ *is* of the opinion that there is a need for additional space for the use of the ~~is needed by the~~ General Assembly or agencies of the Commonwealth, such Committees may select a suitable ~~improved or unimproved site or sites, whether improved or unimproved, and with~~ . *With the approval of the General Assembly , as evidenced by a joint resolution thereof, the Committees may ; on behalf of the Commonwealth,* request the Board to purchase ~~such the site or sites~~ , including any buildings and improvements thereon, if any, for lease to the Commonwealth, or to finance improvements thereto, or may seek ~~such other means of acquiring or improving such the site or sites~~ , including the financing thereof, all as the same may be authorized by the ~~aforsaid~~ joint resolution.

B. ~~With the acquisition of any such site or sites~~ *When the site* , including any buildings and improvements thereon, if any, ~~is acquired,~~ the Committees on Rules of the House of Delegates and of the Senate may ~~cause to be constructed thereon~~ *arrange for the construction* of one or more buildings for the use and occupancy of the General Assembly or ~~such state agencies as such the Committees may select and~~ , under the same terms and conditions, any additions or improvements may be made, and furniture and furnishings supplied, to ~~an existing building or buildings situated thereon.~~ Such funds as may be required preliminary to acquisition of, construction on, or alteration in real property for which expenditures are to be made ; may be authorized pursuant to this section subject to the provisions of the resolution referred to in subsection A of this section. The amount that may be invested by the ~~Virginia Supplemental Retirement System Board~~ or ~~such any other source of financing as may be selected for any such purpose~~ shall not exceed ~~such the amount as is specified in such the resolution.~~

C. If the financing as provided in the foregoing be made through arrangement ~~is arranged~~ with the Board, ~~then~~ the Treasury Board, out of the appropriations made to it for such purpose, shall pay to the Board an annual rental in an amount to be determined by the ~~retirement system, such Board.~~ *The rental to shall be fixed and adjusted in with respect to the total investment of the retirement system Board in such the site or sites and improvements thereon so as to provide a rental income to the Board sufficient to restore to it the total investment in such property within a period not exceeding twenty years from the time such the site or sites are is first made available for occupancy by the General Assembly or state agencies, and also to*



provide to the retirement system the Board annual interest charges at the prevailing rate of interest on the total investment of the retirement system in such property Board at the time of the System investment in such property or properties, provided that the . The prevailing interest rate on investments in such properties held by the System Board on June 30, 1982, shall be construed to mean the interest rate initially set for such properties. If financing shall be arranged through other sources, the Treasury Board , out of appropriations made to it for such purpose, shall repay any such obligations incurred in accordance with their the terms and conditions as all of the provisions of this subsection shall be approved in of the resolution referred to in subsection A of this section.

D. If the financing as provided in the foregoing shall be made through arrangement is arranged with the Board , then " total investment, " as used in this section, in addition to expenditures required by subsection B hereof, shall include loss of income to the retirement system Board upon construction costs incurred during the improvement of such site or sites or buildings situated thereon. Whenever When the retirement system Board has recovered the amount of its total investment in such property, and the interest thereon, the lease for any such property or sites shall thereupon terminate , and the title ; if not already vested in the Commonwealth, to the real estate and the improvements thereon , if not already vested in the Commonwealth, shall thereupon pass to and vest in the Commonwealth ; free from the provisions of such the lease. The Board shall not at any time be responsible for the maintenance and operation of such building or buildings that it may purchase or construct purchases or constructs under the provisions of this section.

E. The Committees on Rules of the House of Delegates and the Senate shall be charged with the responsibility for signing all agreements for facilities for the legislature and other state agencies and shall seek the advice of the Department of General Services in the preparation and implementation of such agreements. The Speaker of the House of Delegates and the President pro tempore of the Senate shall sign all documents and carry out all of the policies approved jointly by such Committees , and they shall be charged with the general supervision of the legislative facilities under the direction of such Committees.

F. Notwithstanding any other provision of law, whenever Whenever any site or property is purchased or improved by the Virginia Supplemental Retirement System Board pursuant to § ~~51-111.24:6~~ 51.1-121 and such the site or property is thereafter taken for the use of the General Assembly, the investment of the Virginia Supplemental Retirement System in such site or property Board shall in all respects be governed by this section and not by § ~~51-111.24:6~~ 51.1-121

G. This section shall apply also, mutatis mutandis, to construction of new or improvement of existing buildings for legislative use in the event that if title to any real estate involved is previously vested in the Commonwealth or the Virginia Supplemental Retirement System Board , regardless of whether the funds therefor have been heretofore or are hereafter will be expended.

DRAFTING NOTE: Language revisions only.

§ ~~51-111.24:6~~ 51.1-121 . Investment in sites and buildings for occupancy by state agencies.—A. Whenever the Governor shall be is of the opinion that there is a need for additional space for the use of is needed by the agencies of the Commonwealth, he may, with the approval of the Virginia Public Buildings Board, select a suitable improved or unimproved site or sites, whether improved or unimproved and ; on behalf of the Commonwealth, request the Board to purchase such the site or sites , if not owned by the Commonwealth, including buildings and improvements thereon, for lease to the Commonwealth. If such the site is owned by the Commonwealth, the Governor may ; on behalf of the Commonwealth, lease such the site or sites to the Board without rent and for a period not to exceed ninety-nine years to the retirement system .

B. The Board is authorized to purchase such site or sites ; if not owned by the Commonwealth, including buildings and improvements thereon, and also to construct thereon, in conformity with plans and specifications approved by the Department of General Services, one or more buildings for the use and occupancy of such state agencies as the selected by the Governor may select as set forth herein and under . Under the same terms and conditions an addition or , additions or improvements may be made to an existing building or buildings situated thereon. The amount that may be invested by the retirement system the Board may invest for such purpose shall not exceed the amount specified in subsection (g) F of § ~~51-111.24~~ 51.1-114 .

C. The Treasury Board, out of appropriations made to it for such purpose, shall pay to the retirement system Board an annual rental in an amount to be determined by the Board ; such .

~~The rental to shall be fixed and adjusted in with respect to the total investment of the retirement system in such the site or sites and improvements thereon so as to provide a rental income to the retirement system Board sufficient to restore to it the total investment in such property within a period not exceeding twenty years from the time such the site or sites are is first made available for occupancy by state agencies, and also to provide to the retirement system Board, annual interest charges at the prevailing rate of interest on the total investment of the Board at the time of the System investment in such property or properties, provided that the . The prevailing interest rate on investment investments in such properties held by the System Board on June 30, 1982, shall be construed to mean the interest rate initially set for such properties.~~

D. "Total investment," as used in this section ; and subsection ~~(g)~~ F of § ~~51-111.24~~ 51.1-114 , shall include loss of income to the retirement system Board upon construction costs incurred during the improvement of such site or sites or buildings situated thereon. ~~Whenever~~ When the retirement system Board has recovered the amount of its total investment in such property, and the interest thereon, the lease for such site or sites shall ~~thereupon~~ terminate and the title to the real estate and the improvements thereon shall ~~thereupon~~ pass to and vest in the Commonwealth ; free from provisions of such the lease.

E. The Board shall not at any time be responsible for the maintenance and operation of such building or buildings that it ~~may purchase or construct~~ purchases or constructs under the provisions of this section.

DRAFTING NOTE: Language revisions only.

~~§ 51-111.24:4~~ 51.1-122 . Deposit of public funds not an investment; authorized deposits.—The Board may authorize the deposit of trust funds in interest-bearing time deposits and certificates of deposit of national banks located within this State and the Commonwealth, of banks organized pursuant to Chapter 2 (§ 6.1-3 et seq.) of Title 6.1 and the Virginia Banking Act (§ 6.1-3 et seq.), of savings and loan associations which are under state supervision, and of federal associations located in this Commonwealth and organized under the laws of the United States and under federal supervision ; ~~provided that such deposit . Such deposits~~ shall not be considered the investment of such trust funds for the purposes of this chapter. Deposit of such the funds in demand and time deposits and in certificates of deposits deposit of national banks located within this Commonwealth and of banks organized pursuant to Chapter 2 of Title 6.1 the Virginia Banking Act (§ 6.1-3 et seq.) is hereby authorized, provided that such the deposits are secured as provided by law ; and further provided that no such deposit shall be is made for any one period in excess of one year. Deposit of such trust funds in savings accounts and certificates of savings and loan associations which are under state supervision ; and of federal associations ; located in this Commonwealth and organized under the laws of the United States and under federal supervision is hereby authorized ; ~~provided that such . Such deposits~~ shall not exceed the amount insured by the Federal Savings and Loan Insurance Corporation ; a corporation created pursuant to an act of Congress of the United States, approved June 27, 1934, and known as the National Housing Act, and amendments thereto , unless such deposits in excess of the amount insured shall be are fully collateralized by eligible collateral as defined in § 2.1-360 (e) ; and further provided, that no . No such deposit shall be made for any one period in excess of one year.

DRAFTING NOTE: Language revisions only.

~~§ 51.1-123. Retention of investments that become ineligible.—An investment that conformed with the provisions of this chapter at the time the investment was made may be retained even though the investment ceases to be eligible for purchase under the provisions of this chapter, unless the exercise of reasonable care requires the sale or other disposition of the investment.~~

DRAFTING NOTE: This section is subdivision 10 of existing § 51-111.24:1.

~~§ 51-111.24:8~~ 51.1-124 . Investment provisions exclusive.—Notwithstanding any other provision of law, investment of trust funds by the Board shall be governed exclusively by §§ 51-111.24 through 51-111.24:7 this article .

DRAFTING NOTE: No change in the law.

#### Article 4.

##### Membership in Retirement System.

~~§ 51-111.27~~ 51.1-125 . Persons composing membership; persons holding more than one position.— ~~(a)~~ Except as provided in subsection ~~(a1)~~ of this section, membership in the retirement system shall consist of the following:

~~(1)~~ A. All persons who become employees after March 1, 1952 ; and ,



~~(2) Any member as defined in § 51-111.10 (8) with twelve years or more creditable service who thereafter becomes the treasurer, commissioner of revenue, Commonwealth's attorney, clerk of a circuit court, sheriff, or constable of any county or city may have the option to become a member of a local pension system or, with the prior approval of the county or city, remain in the retirement system.~~

~~If such member elects to remain in the retirement system and such election is approved by the county or city, the county or city shall contribute to the retirement system in accordance with the retirement system's requirements, rules, and regulations, and at a rate prescribed by the retirement system's actuary; however, all additional costs related to this election shall be borne by the county or city. It is further provided that the county or city shall provide the retirement system with a resolution setting forth the approval and agreement to pay the required contributions.~~

~~(a1) Membership shall not include the following: shall be members of the retirement system, except for the following persons:~~

~~1. Any person who elects not to participate as provided in §§ 51-111.10:1, 51-111.10:3, 51-111.28 and 51-111.32 this chapter, or who elected not to participate in the abolished system;~~

~~2. Any person who becomes an employee and who elects to remain a member of a local pension system where such election is provided allowed by state law; and.~~

~~3. Any member of a local system who through promotion achieves a position bringing him within the definition of a teacher as defined in §§ 51-111.10 and 51-111.10:01 if he elects within sixty days, with the concurrence of his employer, to remain a member of the local system.~~

~~(b) B. No person shall hold more than one membership in the retirement system at any one time with respect to any of the benefits; including group insurance coverage, provided under this title. Any person employed in more than one position resulting in membership shall elect one position on which his membership shall be based by written notification thereof to the Board.~~

~~DRAFTING NOTE: Obsolete language is deleted. Wording regarding more than one membership in group life insurance coverage is moved to § 51.1-503.~~

~~§ 51-111.28 51.1-126 . Employees Certain employees of institutions of higher education.— (a) A. Any institution of higher education which; at the time of the establishment of the retirement system, has established, or which may thereafter establish establishes, a retirement plan or arrangement covering in whole or in part its employees engaged in the performance of teaching, administrative, or research duties; is hereby authorized to make contributions for the benefit of its employees who elect to continue or be under such plan or arrangement and elect to participate in such plan or arrangement rather than in the retirement system established by this chapter. Any present or future employee of such institution shall have the option of electing may elect to participate in either the retirement system established by this chapter or the plan or arrangement provided by the institution employing him. The election herein provided shall, as to any future employee, be exercised not later than ninety days from the time of entry upon the performance of his duties.~~

~~(a1) The Virginia Cooperative Extension Service is hereby authorized to make contributions into the Federal Employees Retirement System for the benefit of its employees who hold federal governmental appointments and who elect participation into such system before December 31, 1987.~~

~~(b) B. No employee of an institution of higher education who is an actively participating active member in a plan or arrangement established under this section with regard to teaching, administrative, or research duties shall also be an actively participating active member of the retirement system established by this chapter for any other position of employment or beneficiary other than a contingent annuitant.~~

~~(b1) No employee who is an active member of the Federal Employees Retirement System established in 1986 in Public Law 90-335 shall also be an active member of the Virginia Supplemental Retirement System or any other optional retirement plan authorized by this chapter.~~

~~(e) C. No employer contribution from general fund revenues to any other retirement system in plan on behalf of an employee as provided in subsection (a) A shall exceed the contribution which would be required of such employer if the employee was a member of the Virginia~~

Supplemental Retirement System retirement system .

§ 51.1-127. *Federal Employees' Retirement System.*—*The Virginia Cooperative Extension Service is hereby authorized to make contributions into the Federal Employees' Retirement System for the benefit of its employees who hold federal governmental appointments and who elect to participate in the system. No employee who is an active member of the Federal Employees' Retirement System shall also be an active member or beneficiary other than a contingent annuitant of the retirement system or any retirement plan authorized by this chapter or administered by the Board.*

DRAFTING NOTE: Obsolete language is deleted. Existing subsections (a1) and (b1) are combined in a new section. Provisions regarding the establishment of retirement plans by institutions of higher education for their teaching, administrative, and research staffs are made into one section and provisions relating to the participation of employees of the Virginia Cooperative Extension Service in the Federal Employees' Retirement System are made into a separate section.

§ ~~51-111.29~~ 51.1-128 . *Cessation of membership.*—*The membership of any person* *Membership* *in the retirement system shall cease* (a) (i) *upon the withdrawal of the amounts credited in his the member's contribution account, unless at such time the member has been credited with at least twelve months of service for which his employer elected to make payment in lieu of the member's contribution and such contributions have been credited to the employer's retirement allowance account as provided in subsection (a) of § 51-111.46 or § 51-111.46:1. (b) (ii) upon retirement, (c) (iii) upon death, or (d) at the discretion of the Board, upon his eightieth* ~~birthdate~~ (iv) *as provided by Board policy for dormant accounts .*

*Upon the withdrawal of the member's accumulated contributions or upon death, an employee shall lose all rights to any benefits under this chapter arising from service prior to the date of cessation of membership.*

DRAFTING NOTE: A portion of the first sentence is stricken so that pre and post March 31, 1980, employees will have the same benefit structure. Subdivision (d) was replaced with the authority to close dormant accounts. The second paragraph is existing § 51-111.43. A reference in that section to § 51-111.41:1 was stricken because service can be purchased only if a person is a member.

§ ~~51-111.30~~ 51.1-129 . *Limitation on membership.*—*No provision of any other statute which provides either entirely or partially at the expense of that the Commonwealth for shall pay the entire or a portion of the cost of retirement benefits for employees, their widows surviving spouses , or other dependents ; shall apply to members or beneficiaries of the retirement system, or to their widows surviving spouses , or other dependents ; provided that this . This provision shall not apply to any such benefits extended under any agreement between the Commonwealth and the federal government , or any agency thereof, or any benefits extended under Article 10 (§ 51-111.67:14 et seq.) of this chapter: the Government Employees Deferred Compensation Plan Act (§ 51.1-600 et seq.).*

DRAFTING NOTE: Language revisions only.

Article 5.

*Participation of Political Subdivisions in Retirement System.*

§ ~~51-111.31~~ 51.1-130 . *Resolution of governing body or agency and approval by Board; general provisions: counties and cities to establish local systems or participate in state systems.*—(a) *The governing body of any county, city or town, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the Commission or public authority or body corporate, as distinguished from §§ 15.1-20, 15.1-21, or similar statutes, may, by resolution legally adopted and approved by the Board, elect to have those of its officers and employees who are regularly employed full time on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, become eligible to participate in the retirement system; provided that the officers and employees of a social services department, welfare board, mental health and mental retardation services board, or library board of a county, city or town, or similar organization other than a public school board shall be deemed to be officers and employees of the county, city, or town, and not of the social services department, welfare board, mental health and mental retardation services board, library board, or similar organization other than a public school board, for purposes of participation in the retirement system. An organization is dissimilar to a social services department, welfare board, mental health and mental retardation services board, or library board of a county, city, or town if the cost of its*

operation is, in effect, borne by users of services provided; such as sewage disposal, by more than one county, city, or town, or by no county, city or town. Clerks of the circuit court and deputies, or employees of any such officer shall be included in the coverage group. Acceptance of the employees of such an employer for membership in the retirement system shall be optional with the Board and if it shall approve their participation, then such employees may become members of the retirement system and participate therein as provided in the provisions of this article. Notwithstanding anything to the contrary, employees of such employer who are members of any retirement, pension or benefit fund partially or wholly supported by public funds shall not be entitled to become members of the retirement system on that part of their compensation covered by such fund except as provided under § 51-111.34; provided, that this limitation shall not apply as to such employees covered by Federal Old Age and Survivors Insurance under the Social Security Act.

(b) On and after July 1, 1977, every county and city, and every town having a population of 5,000 or more, shall provide a retirement system for those officers and employees eligible for coverage under subsection (a) either (1) by establishing and maintaining a local retirement system under which the service retirement allowance payable to each employee who retires at age 65 or more equals or exceeds two-thirds of the service retirement allowance to which the employee would have been entitled had his allowance been computed under the provisions of § 51-111.55 (a) (1), or (2) by participating directly in the state retirement system pursuant to subsection (a). The determination whether a local retirement system satisfied the criterion of (1) above shall be made by the Board, taking into account the difference, if any, between the employee contribution rates under such local retirement system and the State retirement system; approval by Board.—The governing body of a political subdivision may adopt a resolution requesting that its eligible employees become members of the retirement system. The governing body's resolution shall be submitted to the Board for approval, and acceptance of the employees in the retirement system shall be at the option of the Board. If the Board approves the resolution, eligible employees may become members of the retirement system.

DRAFTING NOTE: This section is a portion of subsection (a) of existing § 51-111.31. A portion of the first sentence of subsection (a) was made into a definition of political subdivision and added to proposed § 51.1-101. Language regarding eligible employees was rewritten and made into a new § 51.1-132. Language limiting participation in the retirement system was made into a new § 51.1-133. The provision in the last sentence of subsection (a) relating to social security was not retained because under current law an employee may be covered by both a public retirement system and social security. Subsection (b) was moved to § 51.1-300 in Chapter 8 regarding local retirement systems.

§ 51-111.34 51.1-131 . Local pension systems ; transfer to retirement system .— Should a majority of the The members of any retirement pension or annuity fund, benevolent association, or retirement system of any employer political subdivision , hereafter referred to as a local pension system, may elect to become members of the retirement system ; by submitting to the Board a petition duly signed by such a majority of the members ; . The Board may approve the participation of such members in the retirement system may be approved as provided in § 51-111.31 as though such the local pension system were was not in operation, and the provisions of this article shall thereupon apply ; except that the existing . Existing pensioners or annuitants of the local pension system who were are being paid pensions on the effective date of the approval, coverage and former employees whose rights are vested ; may be continued and retain their rights under the local pension system and be paid at their existing rates by the retirement system ; except that such . After the local pension system is discontinued, the rates may be increased by all future percentage increases which are granted ; after the date the local pension system is discontinued, to those beneficiaries retired under the provisions of this chapter.

If deemed practicable by the Board, any cash and securities to the credit of credited to the local pension system shall be transferred to the retirement system as of the effective date of approval coverage . The trustees or other administrative head of the local pension system as of the date of the approval shall certify the proportion if any of the funds of the system that represents the accumulated contributions of the members, and the relative shares of the members as of that date . Such If appropriate, the accumulated contributions and shares shall be credited to the respective individual accounts of such the members in the members' contribution account. The operation of the local pension system shall be discontinued as of the effective date of the approval coverage .

If it deems transfer of funds not practicable, the Board may, by agreement with the employer, provide for the coordination of If the Board determines that the transfer of funds is not practicable, the Board may enter into an agreement with the employer to coordinate any benefits payable under this chapter with any vested benefits payable under such the discontinued local system.

DRAFTING NOTE: Some provisions rewritten for clarity. "Approval" was changed to

“coverage.”

§ 51.1-132. *Eligible employees.*—Officers and employees of the political subdivision who are regularly employed full time on a salaried basis and whose tenure is not restricted as to temporary or provisional appointment may become members of the retirement system. Clerks of the circuit court and deputies shall be included in the coverage group. Officers and employees of an organization other than a public school board that functions solely within the boundaries of a county, city, or town shall be deemed to be officers and employees of the county, city, or town, and not of the organization, unless the cost of the organization's operation is borne by (i) the users of services, (ii) more than one county, city, or town, or (iii) any entity other than a county, city, or town.

DRAFTING NOTE: This is a portion of existing § 51-111.31. Language explaining which employees are considered employees of the county, city, or town was rewritten for clarity.

§ 51.1-133. *Limitation on membership.*—Employees who are members of any retirement, pension, or benefit fund partially or wholly supported by public funds shall not be entitled to become members of the retirement system on that part of their compensation covered by the fund except as provided under this article.

DRAFTING NOTE: This is a portion of existing § 51-111.31.

§ 51-111.32 51.1-134 . *Optional membership; creditable service.*—Membership in the retirement system for ~~officers and eligible employees who become eligible under the provisions of § 51-111.31 in service on the date of coverage~~ shall be optional with all such employees in service on the date the approval is given, irrespective of age . Any such employee who elects to join the retirement system within one calendar year after such the date of approval coverage shall be entitled to a prior service certificate covering such periods of service prior to such credit for service rendered prior to the date of approval coverage as shall be certified as creditable service by his employer for service rendered to such the employer, or his predecessor, or the Commonwealth, or in any other capacity approved by the employer and the Board. Any officer or employee of a political subdivision for which the date of approval was prior to September 1, 1955, who was a local officer, including sheriffs compensated on a fee basis only if a maximum compensation allowance for the position is established, and who elected to join the retirement system prior to July 1, 1958, shall be entitled to a prior service certificate on the same basis. Thereafter service for such employer on account of which the employer and member pay contributions, shall be considered also as creditable service.

DRAFTING NOTE: The word “approval” was changed to “coverage” for greater accuracy. Obsolete language which was of limited application is deleted.

§ 51-111.33 51.1-135 . *Compulsory membership.*—Membership in the retirement system shall be compulsory for all eligible employees who are eligible as provided in § 51-111.31 and who enter service of an employer after the effective date the approval is given, except as provided in § 51-111.28 of coverage .

DRAFTING NOTE: The word “approval” was changed to “coverage” for greater accuracy. The words “except as provided in § 51-111.28” are stricken because § 51-111.27 addresses compulsory membership and it is not necessary to repeat here.

§ 51-111.35 51.1-136 . *Submitting information and performing duties prescribed by Board.*—The chief fiscal officer of the employer ; and the heads of its departments ; shall submit to the Board such information and shall cause to be performed in respect to the employees of the employer such perform duties as shall be prescribed by the Board in order to carry out the provisions of this chapter.

DRAFTING NOTE: No change in the law.

§ 51-111.36 51.1-137 . *Computation of employer contribution rates of contribution ; reimbursement by Commonwealth.*— (a) A. At least once in each two-year period , the actuary of the retirement system shall compute the annual rates of contributions payable by the employer on behalf of those employees who become are members under the provisions of this article. Such . The rates shall be determined by an actuarial valuation of the retirement allowances and other benefits which will be payable on account behalf of the employees of such employer who become are members. Such The contributions shall be payable in lieu of contributions payable on account behalf of other members in the system. The expense of making such initial and subsequent valuations shall be assessed against and paid by the employer on whose account it is necessary .

(b) B. In the case of contributions payable by the employer on behalf of any local officer, the Commonwealth shall reimburse the employer on the basis on which the Commonwealth pays the salaries of such the officer ; or shares or would share in the excess fees from the office. Such payment Payment shall be made from funds appropriated for such this purpose.

DRAFTING NOTE: Language revisions only.

§ ~~51-111.27~~ 51.1-138 . Benefits.—A. Employees who become members under this article and on whose behalf of whom contributions are paid as provided in this article shall be entitled to benefits under the retirement system.

B. ~~The employer may,~~ By resolution legally adopted and approved by the Board, ~~the employer may~~ elect to provide benefits equivalent to those provided for state police officers of the Department of under the State Police Officers' Retirement System , as set out in §§ 51-144 (15), 51-150, 51-151 A, B, D, E, F, G, 51-152, 51-153, 51-154, 51-155, 51-156, 51-157, 51-157.1 and 51-159 Chapter 2 (§ 51.1-200 et seq.) of this title, in lieu of the benefits that would otherwise be provided hereunder for any such 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 and highway laws of this Commonwealth as directed by his superior officer, if so certified by his appointing authority, or (ii) positions as full-time salaried fire fighters. ~~Notwithstanding any provision of law, sheriffs, Sheriffs~~ of political subdivisions which participate in the retirement system shall receive benefits equivalent to those of state police officers regardless of whether the employer has elected to provide ~~same equivalent benefits~~ as set out in this subsection.

C. Each employer providing the benefits of subsection B of this section for its employees ~~on or after~~ 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 subsection B of § 51-150 and subdivision A (2) of § 51-151 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 may retire upon written notification to the Board setting forth at what time the retirement is to become effective. ~~Such~~ The effective date shall be after his last day of service but shall not be more than ninety days prior to the filing of such notice. The member shall receive an allowance which shall be determined in the same manner as for retirement at an employee's normal retirement date with years of creditable service and average final compensation being determined as of the date of his actual retirement. If the member has less than thirty years of service at the date of retirement, the amount of the retirement allowance so determined shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) the member's normal retirement date or (ii) the first date on or after the member's fifty-fifth birthday on which the member would have completed a total of thirty years of creditable service had the member been continuously in service from the date of retirement until such first date .

For purposes of benefits payable under the provisions of subsection B of § 51-156 Members retiring under the provisions of this subsection shall be entitled to receive post-retirement supplements as provided in subsections A, B, and C of § 51.1-166. In computing the amount of any supplement, any additional allowances being paid under the provisions of subsection B of § 51.1-206 shall be disregarded. In the case of death before retirement , members of whose employers ~~electing~~ elect to provide benefits in accordance with the provisions of this subsection and who have not attained the age of fifty-five on the date of death shall be assumed to be fifty-five years of age for the purposes of reducing the benefits on an actuarial equivalent basis.

D. ~~Notwithstanding anything to the contrary,~~ The retirement system shall not be liable for the payment of any retirement allowances or other benefits on account behalf of the ~~members~~ or beneficiaries of any employer under this article, a member or beneficiary of a member for which reserves have not been previously created from funds contributed by such the employer or the members for such benefits.

DRAFTING NOTE: The first change in subsection C corrects an error. "On or after" should have been "prior to." Language was added in subsection C to clarify when members are eligible for post-retirement supplements. The persons addressed here have LEO fifty-five/thirty provisions and are due to get their first COLA within one year after retirement, rather than having to wait until age sixty. Other changes in the section are language revisions only.

§ 51-111.38 51.1-139 . Procedure when employer in default.— ~~The agreement of any employer~~ An employer's agreement to contribute on account behalf of its employees who become members shall be irrevocable ; but should . If an employer for any reason ~~become~~ becomes financially unable to make the contributions payable on account behalf of such the members, then such the employer shall be deemed to be in default. As of the date of such the default, the actuary of the retirement system shall determine by actuarial valuation the amount of the reserves held on account behalf of each then such member and each then beneficiary and shall credit to each such member and each such beneficiary the amount of reserve so held. The reserve so credited together with the amount of the accumulated contributions of each such member, shall be

disbursed in a manner prescribed by the Board, whereupon the rights and privileges of such the members and such beneficiaries shall thereupon terminate.

DRAFTING NOTE: No change in the law.

#### Article 4.1.

##### Participation of Certain Educational Corporations in Retirement System.

~~§ 51-111.38:4. Withdrawal of corporations providing elementary or secondary education; transfer of assets and liabilities.—(a) Any corporation providing elementary or secondary education whose teachers participate, or on the date of retirement participated in the retirement system by reason of their employment by any such corporation on such date, may, on or before the date of termination as provided by § 51-111.38:5, by resolution duly adopted by its board of directors, (i) withdraw its retirement plan from coverage pursuant to this chapter; (ii) amend and restate such retirement plan to permit continuation of its status as a qualified retirement plan; or (iii) voluntarily terminate its retirement plan.~~

~~In the event any such corporation shall not act pursuant to subdivisions (i), (ii) or (iii) above, participation in the retirement system shall terminate pursuant to § 51-111.38:5.~~

~~(b) If any corporation providing elementary or secondary education withdraws from the retirement system pursuant to subsection (a) of this section and establishes or has established a qualified retirement plan which provides for participation by members, retired members, and their beneficiaries, provides for the transfer to such qualified retirement plan of all contributions and prior service credit attributable to such participation and further provides to each participant benefits (including termination benefits) to which each participant would have been entitled immediately before such withdrawal, amendment and restatement, or termination as a result of the employment of any such teacher by such corporation, the Board of Trustees shall transfer to such qualified retirement plan, on such date after the date of qualification and before the date of termination as provided by § 51-111.38:5 as may be requested by such corporation and approved by the Board of Trustees, provided such payments shall not be more than sixty days after such request: (i) all balances in the individual account of the members' contribution account established pursuant to § 51-111.40 of each such participant, attributable to the employment of any such teacher by such corporation, and (ii) all balances in the retirement allowance account established pursuant to § 51-111.50 of each such corporation including all earnings through and including the day of transfer. Upon such transfer, all liabilities of the retirement system for benefits, to the extent accrued as of the date of transfer with respect to each such corporation, member, retired member, and beneficiary shall be assumed by such qualified retirement plan, and all such liabilities of the retirement system with respect thereto shall terminate. No participant or beneficiary shall forfeit any accrued benefit attributable to service other than as a teacher employed by such corporation due to transfer under this section.~~

~~(c) Upon the request of any corporation providing elementary or secondary education, and upon such terms and conditions as the Board of Trustees may determine, the Board is hereby authorized and empowered to control, manage, operate, administer and act as interim trustee or other fiduciary under any amended and restated qualified retirement plan or any qualified retirement plan to which assets and liabilities of the retirement system are transferred pursuant to subsection (b) of this section, until such time as a trustee or other fiduciary shall be appointed. Any such qualified retirement plan shall be administered separately from the retirement system; and no such qualified retirement plan shall comprise a part of the retirement system. Except as provided in this section, the provisions of this chapter shall not apply to any such qualified retirement plan.~~

~~DRAFTING NOTE: This section is being repealed because it is obsolete. The affected entities have withdrawn from the retirement system.~~

~~§ 51-111.38:5. Termination of participation by employees of corporations providing elementary or secondary education.—(a) Participation in any retirement plan created by this chapter by any member, retired member, or beneficiary to the extent of the employment, on the date of retirement or on the effective date of this section, of any teacher by any corporation providing elementary or secondary education shall be terminated on the effective date of this section. In the event, on or before such date any corporation amends and restates or withdraws and adopts a retirement plan and applies for a determination letter from the Internal Revenue Service or files a declaratory judgment action seeking a determination that such retirement plan is a qualified retirement plan, such termination date shall be extended during the pendency of any such application or action. Notwithstanding anything contained in this chapter to the contrary, each such participant shall be fully vested in all benefits provided by this chapter on the date of~~



termination and to the extent of such participation. No participant or beneficiary shall forfeit any accrued benefit attributable to service other than as a teacher employed by such corporation due to termination under this section.

(b) As of the date of termination, the Board of Trustees shall allocate, for the sole benefit of each such member, retired member, or beneficiary participating in the retirement system as a result of the employment, on the date of retirement or termination, of any person by any corporation providing elementary or secondary education: (i) all balances in the individual account of the members' contribution account established pursuant to § 51-111.40 of each such participant, attributable to the employment or former employment of any person by such corporation, and (ii) all balances in the retirement allowance account established pursuant to § 51-111.50 of each such corporation, and shall distribute such amounts within the time and according to the requirements of applicable law.

(c) In the event the assets allocated under subsection (b) of this section are insufficient, on the date of termination, to provide all of the benefits required by applicable law, each corporation employing each participant for whom the assets are insufficient shall contribute to the assets, amounts necessary to make up such insufficiency, as limited by law. Any funds remaining in the allocated assets of the retirement system after all of the vested benefits provided by subsection (b) of this section have been paid shall revert to the corporation contributing same unless any corporation, by its written election, notifies the Board of Trustees that such remaining assets shall be distributed to the participants of such corporation. In such event, all remaining assets shall be allocated to each affected participant according to the requirements of applicable law. The corporation shall notify the Board of Trustees, in writing, as to the disposition of such remaining assets at least thirty days prior to termination.

DRAFTING NOTE: This section is being repealed because it is obsolete. The affected entities have withdrawn from the retirement system.

## Article 6.

### Creditable Service.

§ 51-111.39 51.1-140 . Statement to be filed *Prior service credit statement* .— Under such rules and regulations as are adopted by the Board, each employee upon becoming a member, or someone on his behalf, shall file with the Board, in such form as the Board may prescribe, a statement of the facts pertaining to his status as a member, which shall include a detailed description of all service rendered as an employee, as that term is defined in this chapter, and any other employment in which he has been engaged by the Commonwealth, or by any department, institution or agency thereof, prior to his becoming a member, if any prior service is claimed, and such other information as the Board may require. Upon becoming an employee, each member shall file with the Board a statement describing all prior service as an employee and any other information the Board may require. Upon review of the statement, the Board shall ascertain the amount of prior service to which the member is entitled. The Board may modify its decision upon application of the member or discovery of material error or fraud. Until such the statement is filed, no member or his beneficiary of a member shall be eligible to receive any benefits under this chapter .

DRAFTING NOTE: The first added sentence is a revision of the stricken language. The second added sentence is moved from existing § 51-111.41. The third added sentence is moved from existing § 51-111.42. References to a certificate were not retained because certificates have not been issued since the early 1950's.

§ 51-111.40 51.1-141 . Month or year of service *Service equivalents* .—The Board shall determine by appropriate rules and regulations how much service in any month is the equivalent of a month of service or how much service in any year is the equivalent of a year of service ; but in no case shall it . The Board shall not allow credit for more than one year of service credit for all service rendered in any period of twelve consecutive months.

DRAFTING NOTE: No change in the law.

§ 51-111.41. Prior service credit.—Subject to the above restrictions and to such other rules and regulations as are prescribed by the Board, the Board shall ascertain, as soon as practicable after such statement is filed, the amount of prior service, if any, to which each member is entitled. The Board shall issue prior service certificates, covering all creditable service in the abolished system, to all members who were members of the abolished system provided such members transfer their accumulated contributions in the abolished system to the retirement system by February 1, 1953, except that: (i) Any such member on leave of absence from service on March 1, 1952; (ii) any such member not in service and not on leave from service on such date and, in either case, not transferring their accumulated contributions in the abolished system, to the retirement system, nor, in either case, being refunded accumulated contributions in the

abolished system by February 1, 1953, may within one year after reentry into service, transfer their accumulated contributions in the abolished system to the retirement system provided, in the case of a member not in service and not on leave from service, or of a former member who has been retired, reentry into service is or was within twenty years after date of last being in service. In any case in which a member who was a member of the abolished system is in service on March 1, 1952, and has service as a state employee or teacher prior to July 1, 1942, with which such member has not been credited, the Board shall issue a prior service certificate covering such service if since first becoming a member of such abolished system the member has not withdrawn his accumulated contributions thereto.

**DRAFTING NOTE:** The first sentence of this section is rewritten and moved to proposed § 51.1-140. The beginning of the second sentence to the words "except that" is deleted since the language is obsolete. The remainder of the section is rewritten and moved to proposed § 51.1-142.

~~§ 51-111.41:1~~ **51.1-142.** Prior service or membership credit for certain members.--A. Any member may be credited with all or part of his prior and/or membership service which might otherwise have been credited, except for one or more of the following:

1. Rejection of membership in the abolished system under § 51-47 or the retirement system under § 51-111.32;

2. Cessation of membership under § 51-40 of the abolished system and/or under § 51-111.20 of this chapter because of the withdrawal of his accumulated contributions under § 51-109 of the abolished system or under subsection A of § 51-111.58 of this chapter;

3. Withdrawal of his accumulated contributions under § 51-111.68;

4. Exclusion from membership because of being a member of the General Assembly, or other state officer elected by the people;

5. Termination of service as an officer or employee of a political subdivision in a position which subsequently became covered by the retirement system, pursuant to § 51-111.21 of this chapter and for which prior service credit was granted, provided the service terminated prior to the effective date of coverage of the political subdivision as an employer in the retirement system; or

6. Exclusion from membership by virtue of being employed with the Virginia State Employment Service on and after January 1, 1942, and while the agency was on loan to the federal government.

Any member shall be credited with service in any of the preceding six exceptions if the member pays while in service or within ninety days after termination of service, an amount equal to the contributions that he would have made during the entire period to be credited on the assumptions (i) that, in the event a member requests credit for a portion of the period which may be credited, the most recent such portion shall be credited, (ii) that the member contribution rate specified in § 51-111.46 (a) or § 51-111.46:1 (a), if applicable, as of the date of payment had been in effect during the entire such period and (iii) that his creditable compensation as of the date of payment (or as of the last date in service, if the member is not in service at date of payment) had been received during the entire such period. Any member whose average annual creditable compensation during his thirty-six highest months of creditable service as of the date of payment is higher than his creditable compensation as of the date of payment or last date in service shall be assumed to have received such average during the entire period to be credited. Those members excluded under subdivision 6 of subsection A shall pay at the contribution rate established for the year 1942 under the abolished system. Such amount of contributions paid shall be credited to the account of the member in the members' contribution account. No payment shall be made for any period of service prior to June 30, 1942, or any period subsequent to that date during which the member was in the armed forces of the United States.

Such payment may be made in a lump sum or, at the option of the member, by an additional payroll deduction in an amount equal to the current contribution rate specified in § 51-111.46 or § 51-111.46:1, if applicable. Only one such additional deduction shall be permitted. In the event that such additional deduction is for any reason terminated prior to the completion of purchase of the entire period which might otherwise be credited, the member shall be credited with the number of additional months of service for which payments were made. In the event that such additional deduction is for any reason continued beyond the point at which the entire period has been purchased, the member shall be credited with no more than the entire period which might otherwise have been credited and the excess amount deducted shall be refunded to



the member.

B. In order for the additional service provided for in subsection A of this section to be considered if appropriate in the computation of any retirement allowance payable in the event of a member's retirement under § 51-111.56, the member shall have submitted at the time payment or repayment is made or begun, as the case may be, a medical report satisfactory to the Medical Board showing that the member was at such time of sound mind and body.

C. Any member who is credited with five or more years of membership service and who is in service or within ninety days after termination of service with full-time salaried service as a state employee or a teacher prior to July 1, 1942, and who has not received credit for same shall be credited with such prior service upon application.

D. Any member granted a leave of absence for educational purposes or for temporary employment with the General Assembly may receive credit for up to two years of service during any period or periods of such leave on the purchase basis set forth in subsection A of this section.

E. Any member who is a teacher as defined in subdivision (4) of § 51-111.10 or subdivision (a) (4) of § 51-111.10:01 may receive credit for service rendered as a nonprofessional employee of a school board provided the school board has extended coverage to its nonprofessional employees and granted credit for service rendered prior to the effective date of such coverage.

F. Any member granted a leave of absence for temporary employment with the General Assembly prior to June 30, 1966, and the Clerks and sworn Deputy Clerks of the House of Delegates and the Senate shall receive credit for service rendered as employees of the General Assembly. Such credit shall be computed as one year of service for each calendar year in which such member served at a session of the General Assembly.

G. Service qualifying for credit under the provisions of the State Police Officers Retirement System (§ 51-143 et seq.) shall be included as creditable service for the purposes of this chapter, provided the requirements as set forth in said act for crediting such service thereunder have been complied with by the member and any payment required thereunder credited in the member's contributions account.

H. Any member granted a leave of absence due to illness or disability or any member whose service is temporarily terminated due to illness or disability subsequent to January 1, 1964, may receive credit for up to four years of service during any period or periods of such illness or disability on the purchase basis set forth in subsection A of this section.

I. Any member in service who was denied membership because of having attained age sixty when first employed or reemployed may purchase all or any portion of service lost as a result of such denial upon payment in a lump sum of the amount such member would have contributed had he been allowed to participate in the system. In order for the additional service to be considered in the computation of any retirement allowance payable in the event of retirement under § 51-111.56, the member shall submit at the time payment is made a medical report satisfactory to the Medical Board showing that the member is at such time of sound mind and body.

J. Any member currently employed as a clerk of a combined district court who, from 1955 to 1965 was employed by the district court clerk's office for which membership credit was not received may receive credit for such term of service on the purchase basis set forth in subsection A of this section. Any member in service or within ninety days following termination of service may purchase credit for service lost as a result of the following:

1. Rejection of membership in the retirement system.
2. Cessation of membership under this chapter because of the withdrawal of his accumulated contributions.
3. Exclusion from membership because of being a member of the General Assembly or other state officer elected by the people.
4. Termination of service as an officer or employee of a political subdivision in a position which subsequently became covered by the retirement system and for which prior service credit was granted.

In order to receive credit for the service, the member must pay an amount equal to the

contributions that he would have made during the entire period to be credited. When a member requests credit for a portion of the period, the most recent portion shall be credited. It shall be assumed that the member contribution rate specified in this chapter as of the date of payment had been in effect during the entire period and that the higher of the member's creditable compensation or average final compensation as of the date of payment had been received during the entire period.

Payment may be made in a lump sum or by an additional payroll deduction. Only one additional deduction shall be permitted at any time. Should the additional deduction be terminated prior to purchasing the entire period which might otherwise be credited, the member shall be credited with the number of additional months of service for which payments are made. If the additional deduction is continued beyond the point at which the entire period has been purchased, the member shall be credited with no more than the entire period which might otherwise have been credited and the excess amount deducted shall be refunded to the member.

B. In order for the purchased service to be used in the computation of any retirement allowance payable in the event of a member's retirement for disability, the member must submit a medical report satisfactory to the Medical Board at the time payment is made or an additional deduction is begun showing that the member is of sound mind and body.

C. Any member granted a leave of absence for any of the following reasons may purchase limited service on the basis set forth in subsection A of this section:

1. Up to two years of service for any leave of absence for educational purposes or for temporary employment with the General Assembly.

2. Up to four years of service subsequent to January 1, 1964, for any leave of absence due to illness or disability or service which was temporarily terminated due to illness or disability.

3. Service from 1955 to 1965 while employed by the district court clerk's office provided the member is currently employed as a clerk of a combined district court.

D. Any member in service who was denied membership because of having attained age sixty when first employed or reemployed may purchase all or any portion of service lost as a result of denial upon payment in a lump sum of the amount the member would have contributed had he been allowed to participate in the system. In order for the additional service to be considered in the computation of any retirement allowance payable in the event of retirement for disability, the member shall submit a medical report satisfactory to the Medical Board at the time payment is made showing that the member is of sound mind and body.

E. Service may be credited at no cost under the following circumstances:

1. Any member who was a member of the abolished system and who was in service on March 1, 1952, shall receive credit for service rendered as a state employee or teacher prior to July 1, 1942, provided the member has not received a refund of accumulated contributions since becoming a member of the abolished system.

2. Any member in service or within ninety days following termination of service who is credited with five or more years of membership service who rendered full-time salaried service as a state employee or teacher prior to July 1, 1942, may receive credit for same.

3. Any member who is a teacher may receive credit for service rendered as a nonprofessional employee of a school board provided the school board has extended coverage to its nonprofessional employees and granted credit for service rendered prior to the effective date of coverage.

4. Any member in service may receive credit for service rendered in the armed forces of the United States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from the armed forces was not dishonorable, (iii) the member has not withdrawn his accumulated contributions, and (iv) the member reenters service in a covered position within one year after discharge from the armed forces.

F. Any member of the abolished system may transfer accumulated contributions in that system to the retirement system within one year after becoming a member of the retirement system.

DRAFTING NOTE: References to purchasing service in the abolished system in existing subdivisions 1, 2, and 3 of subsection A are repealed. Any beneficiaries should not be affected because of § 51.1-402. Existing subdivision A 6 allowing the purchase of service with the Virginia

State Employment Service has been deleted because its provisions are obsolete. The reference to § 51-111.46:1 (a) in the second paragraph of existing subsection A is deleted since this section is being repealed. The reference allowing for the purchase of service with the Virginia State Employment Service at the contribution rate established for the year 1942 is deleted. Existing subsection F is deleted because of its limited application. Subdivision 1 of subsection E and subsection F were moved to this section from existing § 51-111.41. The provisions of subdivision 4 of subsection E were moved from existing § 51-111.45, which is being repealed. Existing subsection G is repealed since subsection C of § 51.1-203 provides for the transfer of creditable service to VRS. The section was rewritten and rearranged for clarity.

~~§ 51-111.41:2. Prior service credit for time spent as trial justice or judge of county court.—Chapter 322 of the Acts of 1960, as amended by Chapter 117 of the Acts of 1964 and Chapters 266 and 523 of the Acts of 1973, relating to prior service credit for time spent as a trial justice or judge of a county court, is incorporated in this Code by this reference because of limited application.~~

DRAFTING NOTE: This section had limited application and is now obsolete.

~~§ 51-111.41:3. Prior service credit for time spent as full-time justice of the peace.—Any member of the retirement system who has held office as a full-time justice of the peace prior to becoming a member of the retirement system and who was during such period devoting full time to the office, not being otherwise employed, or self-employed, may be credited with such period of service upon payment as set forth in subsection A of § 51-111.41:1. For the purposes of § 51-111.47, service purchased in accordance with the provisions of this section shall be deemed to have been rendered as a state employee.~~

DRAFTING NOTE: This section had limited application and is now obsolete.

~~§ 51-111.41:4 51.1-143 . Prior service credit for certain military service or under system of another state, political subdivision, or public school system.—A. Any member in service or within ninety days following termination of service who has been credited with five or more years of membership service may be credited with purchase all or part of his active the following:~~

~~1. Active duty service in the armed forces of the United States not otherwise creditable as prior service in the abolished system or under § 51-111.41:1 or § 51-111.45, and of his certified this chapter.~~

~~2. Certified creditable service in the retirement system of another state ; or of a political subdivision or public school system of this or another state ; or of the civilian .~~

~~3. Civilian service of the United States ; if such .~~

~~The service credit will may not be considered in the calculation of any retirement benefit by another retirement system ; provided such member pays while still in service or within ninety days after termination of service, . The member must pay an amount equal to fifteen percent of his present or most recent annual compensation for each year to be credited ; or fifteen percent of his average annual creditable compensation during his thirty-six highest consecutive months of creditable service, whichever is greater.~~

~~B. In order for the additional service provided for in subsection A of this section to be considered if appropriate in the computation of any retirement allowance payable in the event of a member's retirement under § 51-111.56, the member shall have submitted at the time payment or repayment is made a medical report satisfactory to the Medical Board showing that the member was at such time of sound mind and body. Such In order for the purchased service to be used in the computation of any retirement allowance payable in the event of a member's retirement for disability, the member must submit a medical report satisfactory to the Medical Board at the time payment is made showing that the member is of sound mind and body. This service shall not be considered twice in determining any disability retirement allowance payable under subsection (a) of § 51-111.57 or § 51-111.57:1 this chapter .~~

~~C. Such service Service purchased under this section shall not be considered in determining the actuarial equivalent in subdivision (a) (2) of § 51-111.55; subdivision A 2 of § 51-111.55:1 or of subsection B of § 51-111.58:1, nor shall such service, except for that which had been credited in the retirement system of a political subdivision of this Commonwealth, be considered in determining the twenty years of service requirement of subsection (b) of § 51-161 for early retirement .~~

DRAFTING NOTE: References to § 51-111.57:1 and subdivision (a)(2) of § 51-111.55:1 are deleted since these sections are being repealed. Subsection B was rewritten for clarity. Language at the end of subsection C referring to the State Police Officers' Retirement System was stricken because this is provided for in proposed § 51.1-203.

~~§ 51-111.42. Prior service certificate conclusive.— A prior service certificate shall be conclusive as to such prior service credit unless and until it is modified by the Board upon application made by the member to whom it is issued or upon discovery by the Board of material error or fraud.~~

DRAFTING NOTE: The provisions of this section are moved to proposed § 51.1-140.

~~§ 51-111.43. Cessation of membership.—When membership ceases, except in the case of retirement, an employee shall thereafter lose all rights to any retirement allowance benefits under this chapter arising from service prior to the date of such cessation of membership, except as otherwise provided in § 51-111.41:1.~~

DRAFTING NOTE: The provisions of this section are included in proposed § 51.1-128.

~~§ 51-111.44. Creditable service at retirement.—Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service credited to him, under this chapter, and also, if he has a prior service certificate which is in full force and effect, the service certified on his prior service certificate.~~

DRAFTING NOTE: The first part of the sentence, through the word "chapter" is stricken because it duplicates the definition of creditable service at the beginning of this chapter. The remainder of the sentence is stricken because it is obsolete.

~~§ 51-111.45. Service in armed forces.—(a) Any person who was a member of the abolished system and in the armed forces of the United States on March 1, 1962, or any member of the retirement system subsequently entering the armed forces of the United States, being on leave of absence from such service of the Commonwealth or of the Virginia public free schools or any other employer under this chapter and not withdrawing accumulated contributions shall be entitled to have included as creditable service his period of service in the armed forces of the United States provided his discharge therefrom was not dishonorable and he reenters service within one year after discharge and further provided that no such period of service shall be included as creditable service if it was extended beyond cessation of hostilities through reenlistment.~~

~~(b) Any member in service who rejected membership in the abolished system and subsequently entered the armed forces of the United States, or who was on military leave of absence from a position which was subsequently covered by the abolished system, being on leave of absence from the service of the Commonwealth or of the Virginia public free schools, shall be entitled to have included as creditable service his period of service in the armed forces of the United States, provided his discharge therefrom was not dishonorable, he reentered service within one year after discharge and said service has been continuous since becoming a member and further provided that no such period of service shall be included as creditable service if it was extended beyond cessation of hostilities through reenlistment.~~

DRAFTING NOTE: The provisions of this section are rewritten and moved to proposed § 51.1-142.

## Article 7.

### Contributions.

~~§ 51-111.46 51.1-144 . Member contributions ; provisions applicable to persons who were members on March 31, 1980, and certain others .— (a) A. Each member shall contribute five percent of his creditable compensation for each pay period for which he receives compensation prior to September 1, 1974, five and one-half percent of his creditable compensation minus \$1,200 and thereafter five percent of his creditable compensation .~~

~~(b) The Comptroller, in the case of all state employees paid by warrants on the State Treasurer, or, in the case of any other state employee, the department, institution or agency by which the salary is paid, or the employer in the case of teachers and other employees shall cause to be deducted from the salary of each member for each and every payroll period subsequent to the date of establishment of the retirement system, deduct the contribution payable by such the member as provided in this chapter, but in no case . Every employee accepting employment shall be deemed to consent and agree to any deductions from his compensation required by this chapter. No deduction shall any deduction be made taken from the compensation of a member after his normal retirement date if such the member elects not to contribute.~~

~~(c) B. In determining the creditable compensation of a member in a payroll period ; whether semi-monthly or monthly , the Board may consider the rate of compensation payable to such the member on the date of entry or removal of his name from the payroll as having been received throughout the month if service for the month is creditable. If service for the month is~~

not creditable, the Board may consider any compensation payable during the month as not being creditable compensation.

~~(d) C. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made as provided herein; and by the deduction required by this section. Except for any benefits provided by this chapter, payment of salary or compensation less such minus the deductions shall be a full and complete discharge of all claims for services rendered by such person the member during the period covered by such the payment ; except as to any benefits provided by this chapter .~~

~~(e) Notwithstanding any other provisions of this section, no D. No deduction shall be made from any member's compensation if the employer's contribution required hereunder is in default.~~

~~(f) Any member who was a former member of the abolished system and who transferred his accumulated contributions to the retirement system as provided in § 51-111.41 and who has not withdrawn such contributions may at the time of filing his notice of retirement deposit in his account in the members' contribution account by a single payment such amount as will increase his total retirement allowance to an amount not greater than the largest amount obtainable under the applicable provisions of subsection (d) of § 51-111.55.~~

~~(g) E. The Board may modify the method of collecting the contributions of members so that the employers, departments, institutions and agencies required to remit to the State Treasurer as provided in subsection (b) of this section employer may retain the amounts deducted by them from members' salaries and have a corresponding amount deducted from state funds otherwise payable to them the employer .~~

~~(h) Notwithstanding the provisions of this section, any F. Any employer may ; after June 30, 1976, elect to pay an equivalent amount in lieu of all member contributions required of its employees hereunder . Such payments shall be credited to the retirement allowance members' contribution account and shall not be considered member contributions for purposes of §§ 51-111.58, 51-111.58:1, 51-111.59, 51-111.63 and 51-111.64; nor shall they . These contributions shall not be considered wages for purposes of Chapter 3-1 7 (§ 51-111.1 51.1-700 et seq.) of this title, nor shall they be considered to be compensation salary for purposes of Chapter 3-2 (§ 51-111.9 et seq.) of this title chapter .~~

DRAFTING NOTE: Obsolete language is deleted in subsection (a) and the provisions of existing § 51-111.13 are added to proposed subsection A. The changes in existing subsections (c), (d), and (e) are language revisions only. Subsection (f) is moved to § 51.1-403 because of its limited application. Subsection (h) is changed to provide that contributions paid by employers on behalf of employees will be credited in the members' accounts rather than the employers' accounts. This change reflects the revised benefit structure.

~~§ 51-111.46:1. Same; provisions applicable to persons becoming members after March 31, 1980, and certain others.—(a) Each member shall contribute five percent of his creditable compensation for each pay period for which he receives compensation:~~

~~(b) The Comptroller, in the case of all state employees paid by warrants on the State Treasurer, or, in the case of any other state employee, the department, institution or agency by which the salary is paid, or the employer in the case of teachers and other employees shall cause to be deducted from the salary of each member for each and every payroll period subsequent to the date of establishment of the retirement system, the contribution payable by such member as provided in this chapter, but in no case shall any deduction be made from the compensation of a member after his normal retirement date if such member elects not to contribute.~~

~~(c) In determining the creditable compensation of a member in a payroll period, whether semimonthly or monthly, the Board may consider the rate of compensation payable to such member on the date of entry or removal of name from payroll as having been received throughout the month if service for the month is creditable. If service for the month is not creditable, the Board may consider any compensation payable during the month as not being creditable compensation.~~

~~(d) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by this chapter.~~

(e) Notwithstanding any other provisions of this section, no deduction shall be made from any member's compensation if the employer's contribution required hereunder is in default.

(f) [Repealed.]

(g) The Board may modify the method of collecting the contributions of members so that the employers, departments, institutions and agencies required to remit to the State Treasurer as provided in subsection (b) of this section may retain the amounts deducted by them from members' salaries and have a corresponding amount deducted from state funds otherwise payable to them.

(h) Any employer may by action of its governing body elect to assume and pay all of the member contributions required of its employees under this chapter for such period of time as may be determined by such governing body. Such member contributions shall be computed and paid as provided by this chapter, and shall be made in addition to all other obligations imposed on the employer pursuant to this chapter. Such contributions shall be credited to the member's contribution account, and shall constitute member contributions for purposes of this chapter; provided, however, that employers having elected prior to July 1, 1980, to assume and pay such member's contributions may continue to credit such payments to a separate retirement allowance account and such payments shall not be considered member contributions for purposes of §§ 51 111.58, 51 111.58:1, 51 111.59, 51 111.63 and 51 111.64; nor shall they be considered wages for purposes of Chapter 2.1 (§ 51 111.1 et seq.) of this title, nor shall they be considered to be compensation for purposes of Chapter 2.2 (§ 51 111.9 et seq.) of this title.

(i) The provisions of this section shall not apply to any member of the retirement system on March 31, 1980, or to any member whose benefit is based on service rendered prior to that date.

DRAFTING NOTE: This section is being repealed because of the revised benefit structure. Pre and post March 31, 1980, employees will have the same benefit structure.

§ 51-111.47 51.1-145 . Employer contributions ; provisions applicable to persons who were members on March 31, 1980, and certain others . - (a) The objective with respect to employer contributions under the retirement system shall be that in the absence of amendments to the system the A. The total annual employer contribution for each employer, expressed as a percentage of the annual membership payroll, will shall be determined in a manner so as to remain relatively level from year to year. To this end, each Each employer shall contribute an amount equal to the sum of the " normal contribution, " the " any accrued liability contribution, " if any, and the " any supplementary contribution, " if any . The contribution rates for each employer shall be determined after each valuation and shall remain in effect until a new valuation is made. The Commonwealth shall fund the post-retirement supplements on the basis of an actuarially determined level percentage of payroll no later than June 30, 1992. Thereafter, the post-retirement supplements shall be included in the normal costs calculation of subsection C and the unfunded accrued liability calculation of subsection F. All contribution rates shall be computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board.

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

(c) C. The normal contribution rate for any employer shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits ; other than post-retirement supplements as provided for in § 51-111.60:1, of the retirement system with respect to members employed by such the employer ; computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board, in excess of the part thereof provided by such members' contributions ; to (ii) the total annual compensation of such the members. The normal contribution rate for each employer shall be determined after each valuation and remain in effect until a new valuation is made.

(d) D. The accrued liability contribution for any employer for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation for such period of the members employed by such employer in such during the period.

(e) E. The accrued liability contribution rate for any employer shall be a percentage of the total annual compensation of the members employed by such employer , determined so that a continuation of annual contributions by the employer at the same percentage of total annual



compensation over a period of forty years will be sufficient to amortize the unfunded accrued liability with respect to such the employer ; all computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board . The accrued liability contribution rate for each employer shall be determined after each valuation and shall remain in effect until a new valuation is made.

~~(f)~~ F. The unfunded accrued liability with respect to any employer as of any valuation date shall be determined ; in accordance with recognized actuarial principles on the basis of ~~methods and assumptions approved by the Board~~, as the excess of (i) the then present value of the benefits ; other than post-retirement supplements as provided for in § 51-111.60:1, to be provided under the retirement system in the future with respect to members employed by such employer and to former members formerly employed by such employer over (ii) the sum of the assets of the retirement system then currently on hand in the members' contribution account with respect to such members and in the employer's retirement allowance account, plus the then present value of the stipulated contributions to be made in the future by such the members, plus the then present value of the normal contributions expected to be made in the future by the employer.

~~(g)~~ 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 for such period of the members employed by such employer in such during the period.

~~(h)~~ H. 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 § 51-111.60:1 this chapter, which it is anticipated will to become payable during the period to which the rate will be applicable with respect to former members formerly employed by such employer, to (ii) the total annual compensation of the members employed by such employer. The supplementary contribution rate for each employer shall be determined after each valuation and shall remain in effect until a new valuation is made .

~~(i)~~ I. The Board shall certify to the Comptroller with respect to the contributions to be made by the Commonwealth ; and to each employer contributor other than the Commonwealth with respect to the contributions to be made by such employer, the applicable normal contribution rate, accrued liability contribution rate and supplementary contribution rate ; and any changes made therein from time to time in the rate .

~~(j)~~ If, for any employer contributor, the contributions for any year determined as otherwise provided in this chapter would, in the absence of this provision, be insufficient, when combined with the amount of the retirement allowance account then applicable to such employer, to provide the benefits payable from such account during such year, the employer contribution for such year shall be increased to the extent necessary to overcome such insufficiency. 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)~~ 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 next following. . The amount of the contributions shall be based on the contribution rates certified by the Board pursuant to subsection ~~(i)~~ I of this section that are applicable to the Commonwealth as an employer and the anticipated compensation during such the biennium of the members of the retirement system on behalf of whom the Commonwealth is the employer contributor .

~~(l)~~ 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 general 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 such contributions shall be paid out of the general fund. 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 some political subdivision thereof, contributions shall be paid out of such special fund or by such other contributor in proportion to that part of the employee's

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

DRAFTING NOTE: The first and last sentences inserted in subsection A allow repetitious language to be deleted throughout the section. The second and third inserted sentences providing for the funding of post-retirement supplements are moved from existing § 51-111.47:01. That section pertains to employer contributions and funding of supplements for members with all service rendered after March 1, 1980, and is being repealed. However, the funding of supplements for all members has been implemented, therefore, this language should be retained as a part of the employer contribution rate. The changes in subsections B through K as well as the first amendment in subsection L are language revisions only. The sentence inserted in subsection L regarding persons who elect to remain members of local pension systems was moved from existing § 51-111.10:2 and rewritten. The last two sentences inserted in this subsection were moved from existing § 51-111.12 and rewritten.

§ 51-111.47:01. Same; provisions applicable to persons becoming members after March 31, 1980, and certain others. (a) The objective with respect to employer contributions under the retirement system shall be that in the absence of amendments to the system the total annual contribution for each employer, expressed as a percentage of the annual membership payroll, will remain relatively level from year to year. To this end, each employer shall contribute an amount equal to the sum of the "normal contribution," the "accrued liability contribution," if any, and the "supplementary contribution," if any.

(b) The normal contribution for any employer for any period shall be determined as a percentage, equal to the normal contribution rate of the total covered compensation for such period of the members employed by such employer in such period.

(c) The normal contribution rate for any employer shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits, other than post-retirement supplements as provided for in § 51-111.60:1, of the retirement system with respect to members employed by such employer, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board, in excess of the part thereof provided by such members' contributions; to (ii) the total annual compensation of such members. The normal contribution rate for each employer shall be determined after each valuation and remain in effect until a new valuation is made.

(d) The accrued liability contribution for any employer for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation for such period of the members employed by such employer in such period.

(e) The accrued liability contribution rate for any employer shall be a percentage of the total annual compensation of the members employed by such employer, determined so that a continuation of annual contributions by the employer at the same percentage of total annual compensation over a period of forty years will be sufficient to amortize the unfunded accrued liability with respect to such employer, all computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board. The accrued liability contribution rate for each employer shall be determined after each valuation and shall remain in effect until a new valuation is made.

(f) The unfunded accrued liability with respect to any employer as of any valuation date shall be determined, in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board, as the excess of (i) the then present value of the benefits, other than post-retirement supplements as provided for in § 51-111.60:1, to be provided under the retirement system in the future with respect to members employed by such employer and to former members formerly employed by such employer over (ii) the sum of the assets of the retirement system then currently on hand in the members' contribution account with respect



to such members and in the employer's retirement allowance account, plus the then present value of the stipulated contributions to be made in the future by such 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 for such period of the members employed by such employer in such period.

(h) 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 § 51-111.60-1 which it is anticipated will become payable during the period to which the rate will be applicable with respect to former members formerly employed by such employer to the extent that such benefits are not included in the calculation under subsections (e) and (f), to (ii) the total annual compensation of the members employed by such employer. The supplementary contribution rate for each employer shall be determined after each valuation and shall remain in effect until a new valuation is made.

(i) The Board shall certify to the Comptroller with respect to the contributions to be made by the Commonwealth, and to each employer contributor other than the Commonwealth with respect to the contributions to be made by such employer, the applicable normal contribution rate, accrued liability contribution rate and supplementary contribution rate, and any changes made therein from time to time.

(j) If, for any employer contributor, the contributions for any year determined as otherwise provided in this chapter would, in the absence of this provision, be insufficient, when combined with the amount of the retirement allowance account then applicable to such employer, to provide the benefits payable from such account during such year, the employer contribution for such year shall be increased to the extent necessary to overcome such insufficiency.

(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 biennium next following, 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 such biennium of the members of the retirement system on behalf of whom the Commonwealth is the employer contributor.

(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 general appropriations act. 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 such contributions shall be paid out of the general fund. 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 some political subdivision thereof, contributions shall be paid out of such special fund or by such other contributor in proportion to that part of the employee's compensation derived therefrom. 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, then contributions on behalf of such employee in any year shall be paid out of such special fund, or by such other contributor, in proportion to that part of the employee's compensation derived therefrom for that year. The governing body of each county, city and town is hereby authorized to make such appropriations from the funds of such county, city or town as shall be necessary to pay its proportionate share of contributions on account of every state employee whose compensation is paid in part by such county, city or town.

(m) It shall be the policy of the Commonwealth to proceed as rapidly as possible toward a funding of the post-retirement supplements on the basis of an actuarially determined level percentage of payroll, such basis to be achieved no later than June 30, 1992. Thereafter, the supplements provided for in § 51-111.60-1 will be included in the normal costs calculation of subsection (e) and the unfunded accrued liability calculation of subsection (f).

(n) The provisions of this section shall not apply to any member of the retirement system on March 31, 1980, or to any member whose benefit is based on service rendered prior to that date.

DRAFTING NOTE: This section is being repealed because of the revised benefit structure. Pre and post March 1980 employees will have the same benefit structure.

§ 51-111.47-1 51.1-146 . Failure to report or make payment of pay contributions.—Every

employer shall file all required reports and pay all contributions required by this chapter or rule or regulation of the Board regulation in a manner prescribed by the Board . Failure to file such report reports or pay such contributions by the end of the month in which due shall result in a penalty of five percent of such the amount due plus interest at the rate of one percent per month until such payment is made. The Board may waive all or a part of such the penalty and interest if good cause is shown. Any such delinquent payments Delinquent contributions , penalty penalties, and interest may be recovered by action in a court of competent jurisdiction. At the discretion of the Board such funds contributions, penalties and interest may be deducted from the retirement allowance account of the employer or may be deducted by the State Treasurer, upon warrant of the Comptroller, from any non earmarked moneys distributable to such the employer by any department or agency of the Commonwealth.

DRAFTING NOTE: No change in the law.

#### Article 8.

##### Assets Of Retirement System.

~~§ 51-111.48. Assets credited to one of two accounts.—All of the assets of the retirement system shall be credited, according to the purpose for which they are held, to one of two accounts, namely, the members' contribution account, and the retirement allowance account.~~

DRAFTING NOTE: This section is being repealed because the retirement system has accounts other than the two mentioned in this section.

~~§ 51-111.40 51.1-147 . Members' contribution account.— (a) The members' contribution account shall be the account to which all A. All members' contributions and interest allowances as provided in this chapter shall be credited . From this account shall be paid the accumulated to the member's contribution account. Accumulated contributions of a member required to be returned to him upon withdrawal; a member or required to be paid in the event of his a member's death before retirement shall be paid from the member's contribution account .~~

~~(b) In the case of all members paid directly out of the state treasury, the Comptroller shall, at B. At the end of each payroll period, the Comptroller shall transfer to the members' contribution account from each fund in the state treasury out of which the salary of any member is paid, an amount equal to the aggregate amount of the deductions which would have been made for the preceding payroll period from the salaries of all members paid out of such fund in the state treasury from the appropriate fund in the state treasury . The Comptroller shall forward a record of all such transfers to the Board. In all other cases , the employer ; or the department, agency or institution; by which any member's compensation is paid, shall ; at the end of each payroll period, transmit to the State Treasurer its warrant to the State Treasurer for the payment of an amount equal to the aggregate amount of the deductions made for such each payroll period from the salaries of all members paid by such the employer ; department, agency or institution; for the preceding payroll period. The funds collected by the State Treasurer on account of such warrants shall be credited to the members' contribution account. The State Treasurer shall transmit to the Comptroller and to the Board a record of all moneys so collected to the Comptroller and the Board .~~

~~(c) Each contribution provided for in §§ 51-111.46 and 51-111.46:1 and each payment made under § 51-111.41:1 or § 51-111.41:4, to the extent provided for therein, shall be credited to the individual account of the contributing member.~~

~~(d) C. Each individual account of the members' contribution account shall, prior to the fiscal year beginning July 1, 1970, be credited annually with interest at the rate of two four percent per annum annually on the accumulated contributions of the member. Such account shall, effective the fiscal year beginning July 1, 1970, be credited annually with interest at the rate of four percent per annum on the accumulated contributions of the member; however, interest Interest shall accrue on any such contribution beginning at the end of the fiscal year in which each such the contribution was made. However, notwithstanding any other provisions of this section; the . The Board shall have the authority to determine the manner in which such the interest is to be credited to the members' contribution account.~~

~~(e) D. Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.~~

DRAFTING NOTE: Obsolete language is deleted. Existing subsection C is deleted since its provisions are covered elsewhere in this chapter. Other changes are language revisions only.

~~§ 51-111.50 51.1-148 . Retirement allowance account.— (a) The retirement allowance account shall be the account to which shall be credited all A. All employer contributions, all amounts transferred from the members' contribution account , and all income from the invested assets of~~

the retirement system shall be credited to the retirement allowance account . From this account shall be paid all benefits under the retirement system, other than refunds of members' accumulated contributions in the event of termination of membership prior to retirement , and all administrative expenses of the retirement system , except to the extent that such expenses are otherwise paid , shall be paid from the retirement allowance account . At the discretion of the Board, contributions, penalty or penalties, and interest assessments as provided in § 51-111.47:1 may be deducted from the retirement allowance account of the employer.

(b) B. The amount of the interest allowances provided for in § 51-111.49 this chapter shall be transferred each year from the retirement allowance account to the members' contribution account annually .

(c) C. The records of the retirement allowance account shall be maintained so that the portion thereof that is applicable to each respective employer contribution shall at all times may be ascertained at all times .

(d) [Repealed.]

DRAFTING NOTE: Language revisions only.

§ 51-111.51 51.1-149 . Appointment of custodian; payments.--The Virginia Supplemental Retirement System Board of Trustees is authorized to appoint custodians for the safekeeping and payment of retirement system assets designated by the Board . The selection of these investment services shall be governed exclusively by the fiduciary standard set forth in § 51-111.24:2 this chapter .

The Board may also request that the State Treasurer to issue retirement benefit payments on behalf of the Virginia Supplemental Retirement System retirement system . At the direction of the Board, retirement payments from the accounts shall be made by the State Treasurer , on warrants of the Comptroller , issued upon vouchers signed by such persons as are designated by the Board. A duly attested copy of a resolution of the Board designating such the persons and bearing on its face the specimen signatures of such the persons shall be filed with the Comptroller as his authority for issuing warrants upon such vouchers. No voucher shall be drawn unless it has previously been authorized by Board resolution of the Board .

DRAFTING NOTE: Language revisions only.

§ 51-111.52 51.1-150 . Deposits.--For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten per centum percent of the total amount in the accounts of the retirement system, may be kept on deposit to the credit of the State Treasurer in one or more banks or trust companies, located in Virginia, organized under the laws of Virginia or of the United States ; and qualified as state depositories.

DRAFTING NOTE: Language revisions only.

§ 51-111.52:3 51.1-151 . Proxies to represent retirement system stock held by system in R F & P Corporation; appointment of directors of such railroad .-- (1) For such time As long as the Virginia Supplemental Retirement System shall hold the holds stock in the R F & P Corporation, the trustees of the fund Board shall appoint one or more proxies to represent the stock on behalf of the fund Board . (2) Such The proxies shall cause to be transmitted transmit to the trustees Board copies of the reports of the proceedings of the directors of the R F & P Corporation, the proceedings of the stockholders thereof , and other documents relating to the corporation ; and shall make such reports as the trustees Board may require or to the proxies seem deem proper.

(3) The trustees Board shall appoint such portion of the directors of the R F & P Corporation as shall bear to the whole number of the directors of such company the corporation the same proportion, as nearly as possible, that the stock held by the Virginia Supplemental Retirement System in such company the corporation bears to the whole capital stock thereof. (4) The appointment of directors in such company; according to subsection (3) hereof; shall be made by the trustees appointed before each annual meeting of the R F & P Corporation.

(5) Proxies and directors appointed by the trustees shall be in office from the time such appointment is in force until their successors are appointed, unless sooner removed. When a proxy is unable to attend at any meeting, the trustees Board , without removing him, may make a temporary appointment to be in force during his absence.

DRAFTING NOTE: The word "corporation" is substituted for "company." The word "trustees" was replaced with "Board." Language revisions only.

## Article 9.

## Benefits.

§ 51.1-152. *Limitations on average final compensation.*—If an employee receives increases in compensation in the last four years of service which are not related to promotion and which exceed the average increase received by other employees of the same employer holding comparable positions, the excess shall be excluded when computing the average final compensation if the Board finds, after consideration of all circumstances, that the primary purpose of the salary increase was to increase the retirement benefit of the employee. If there are no employees of the same employer holding comparable positions, the increases may be excluded from the average final compensation if they exceed the average percentage increase received by all other employees of the same employer. Creditable compensation assumed to have been received for the purpose of purchasing service shall be excluded from a member's average final compensation.

DRAFTING NOTE: This section is taken from the definition of average final compensation in existing § 51-111.10. It has been made into a separate section because it is not a definition.

§ ~~51-111.53~~ 51.1-153 . *Service retirement.*—A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire at any time ~~then or thereafter~~ upon written notification to the Board setting forth ~~at what time the date~~ the retirement is to become effective. ~~Such effective date shall be after his last day of service but shall not be more than ninety days prior to the filing of such notice.~~ Any member in service who was denied membership prior to July 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his normal retirement date and the requirement of having five or more years of service shall not apply.

B. Early retirement. - Any member in service who has ~~either (i) attained his fifty-fifth birthday and completed at least with five or more years of creditable service ; or (ii) in the case of a teacher who would have qualified for service retirement prior to his normal retirement date under the provisions of the abolished system, complied with the requirements for retirement set forth in Chapter 36 of the Code of 1910 as it existed immediately prior to July 1, 1942;~~ may retire prior to his normal retirement date upon written notification to the Board setting forth ~~at what time the date~~ the retirement is to become effective. ~~Such effective date shall be after his last day of service but shall not be more than ninety days prior to the filing of such notice.~~

C. Deferred retirement for members terminating service. - Any member ~~having terminated who terminates service (i) prior to July 1, 1966, after fifteen or more years of creditable service or (ii) subsequent to June 30, 1966, and prior to July 1, 1970, after ten or more years of creditable service or (iii) subsequent to June 30, 1970, after five or more years of creditable service ;~~ may retire under the provisions of ~~subsections subsection A or B of this section ; provided that if he shall have withdrawn his accumulated contributions prior to the effective date of his retirement. However, any member shall be entitled to the benefits of this subsection if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn.~~ For the purposes of this subsection , any requirements as to ~~the member being in service~~ shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance , or misfeasance in office. ~~Such The certification may be appealed to the Board ; and its decision shall be final .~~

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

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

DRAFTING NOTE: It has been determined that the first stricken language in subsection B is of limited application and that its provisions are obsolete. Language regarding the effective date is stricken in subsections A and B and made into a separate subsection. The sentence in subsection C allowing a member to receive a deferred benefit if he has five or more years of employer-paid service for which contributions cannot be withdrawn is deleted since all employer-paid contributions will now be credited in the members' accounts and can be withdrawn upon termination of employment. Language deleted at the beginning of subsection C is of limited application. Any beneficiaries will not be affected because of § 51.1-402. In subsection C, the provision that the Board's decision is final was deleted because it is probable that the Board's decision could be appealed. Other changes are language revisions only.

§ ~~51-111.54~~ 51.1-154 . *Compulsory service retirement.*—Any employer, subsequent to the

employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that an employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.

DRAFTING NOTE: No change in the law.

~~§ 51-111.55 51.1-155 . Service retirement allowance ; provisions applicable to persons who were members on March 31, 1980, and certain others . - (a) A. Retirement allowance. - Upon retirement as provided in § 51-111.53, on or after July 1, 1987, a A member shall receive an annual retirement allowance, payable monthly to him for life, subject to the provisions of subsections (f) and (g) of this section, determined in accordance with subdivision (1), (2), or (3a), whichever is applicable, and subdivision (3), if applicable as follows :~~

~~(1) 1. Normal retirement under § 51-111.53 A . - Aa The allowance shall equal to (A) 1.5 percent of his average final compensation multiplied by his number of years of creditable service, or (B) 1.65 percent of his average final compensation minus \$1,200 multiplied by his number of years of creditable service, whichever is larger, subject to the provisions of subsection (c) of this section. A member who terminated employment prior to July 1, 1974, shall receive an allowance equal to 1.65 percent of average final compensation as defined in § 51-111.10 (16) minus \$1,200 1.50 percent of the first \$13,200 of average final compensation plus 1.65 percent of average final compensation in excess of \$13,200, multiplied by his number of years of credited the amount of creditable service. If the member is credited with thirty-five or more years of service, he shall receive 1.65 percent of his average final compensation multiplied by the amount of his creditable service.~~

~~(2) 2. Early retirement under § 51-111.53 B ; applicable to teachers, state employees and members of the General Assembly , and certain others. - Aa The allowance which shall be determined in the same manner as for retirement at his normal retirement date with years of creditable service and average final compensation being determined as of the date of his actual retirement ; provided, that if . If the member has less than thirty years of service at such date retirement , the amount of the retirement allowance so determined shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of thirty years of creditable service had he been continuously in service from his date of retirement until such first date . The provisions of this subdivision shall apply to teachers ; and state employees and members of the General Assembly . These provisions shall also apply to employees of any local governmental entity political subdivision that participates in the Virginia Supplemental Retirement System pursuant to Article 4 (§ 51-111.31 et seq.) of this chapter retirement system if the governmental entity political subdivision makes the election provided in subdivision (2a) 3 of this subsection.~~

~~(2a) 3. Early retirement under § 51-111.53 B ; applicable to employees of certain local governmental entities political subdivisions . - Aa The allowance which shall be determined in the same manner as for retirement at his normal retirement date with years of creditable service and average final compensation being determined as of the date of his actual retirement ; provided, that if . If the creditable service of the member either: (A) has not attained his sixtieth birthday at his date of retirement, or (B) has less than equals thirty or more years of service at such date but the sum of his age at retirement plus his creditable service at retirement is less than ninety , the amount of the retirement allowance so determined shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his sixtieth birthday on which he would have completed a total of thirty years of creditable service which the sum of his then attained age plus his then creditable service would have been equal to ninety or more had he been continuously remained in service from his date of retirement until such first date. If the member has less than thirty years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least thirty years of creditable service and his then creditable service plus his then attained age would have been equal to ninety or more.~~

~~The provisions of subsection D of § 51.1-166 shall not apply to members retiring under the provisions of this subdivision. The provisions of this subdivision shall apply to the employees of any local governmental entity political subdivision that participates in the Virginia Supplemental Retirement System pursuant to Article 4 (§ 51-111.31 et seq.) of this chapter retirement system . The participating governmental entity political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision (2) 2 of this subsection. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.~~

~~(3) 4. Additional allowance. - In addition to the allowance payable under subdivision (1) or subdivision (2) of this subsection, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess; if any, of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since such the transfer to the date of retirement, over the amount obtained by accumulating at the rate of two percent compounded annually; annual amounts equal to four percent of his annual creditable compensation at the date of abolition of the Virginia Retirement System abolition for a period equal to his period of membership in the abolished system and with interest credited at two percent annually from the date of such transfer to the date of retirement .~~

~~(b) -Repealed-~~

~~(c) Normal retirement guarantee. - Subject to the provisions of subsection (e) of this section, the retirement allowance payable upon normal retirement to a former member of the abolished system who transferred his accumulated contributions to the retirement system as provided in § 51-111.41 and who has not withdrawn such contributions prior to retirement shall not be less than the excess, if any, of the service retirement allowance to which the member would have been entitled under the provisions of the abolished system if he had continued contributions in the amount in effect at the date of abolition of such system or, in the case of a member with thirty or more years of creditable service, the larger of such allowance or the minimum retirement allowance excluding post-retirement supplements of the type provided for in § 51-111.60:1, but including increases provided by the General Assembly of Virginia, payable to former members of the abolished system who retired from service with thirty or more years of creditable service under the provisions of the retirement acts in effect prior to March 1, 1962, over one-half of the annual primary social security benefits under the federal Social Security Act to which the member becomes entitled at his retirement date.~~

~~(d) Early retirement guarantee. - Subject to the provisions of subsection (e) of this section, the retirement allowance payable upon early retirement to a former member of the abolished system who transferred his accumulated contributions to the retirement system as provided in § 51-111.41 and who has not withdrawn such contributions prior to retirement, and who would have qualified prior to normal retirement for a service retirement allowance under the abolished system, shall, prior to the member's sixty-fifth birthday, not be less than the service retirement allowance that would have been payable under the provisions of the abolished system, nor after the member's sixty-fifth birthday shall it be less than the excess, if any, of the larger of such allowance or the minimum retirement allowance, excluding post-retirement supplements of the type provided for in § 51-111.60:1, but including increases provided by the General Assembly of Virginia, payable to former members of the abolished system who retired from service under the provisions of the retirement acts in effect prior to March 1, 1962, over one-half of the annual primary social security benefits under the federal Social Security Act to which the member becomes entitled at his sixty-fifth birthday, or to which he would have become entitled at such birthday except for having elected to have his social security benefits commence at an earlier date.~~

~~(e) Determination of retirement allowance. - For the purposes of subsections (c), (d) and (g) of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance as provided in § 51-111.60 is elected.~~

~~(f) B. Beneficiary serving in position covered by this chapter title . - Should If a beneficiary of a service retirement allowance under this chapter or the abolished system be is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 3-1 (§ 51-111.1 et seq.) 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.~~

~~(g) Maximum retirement allowance. - On and after July 1, 1974, no member shall receive a retirement allowance payable hereunder which, when added to one-half of the primary social security benefit to which he is or would be entitled at his sixty-fifth birthday under federal law, will be in excess of his average final compensation. In no event shall benefits payable for service credited prior to July 1, 1974, be less than the benefits that would have been payable had they been calculated under the benefit formula in effect immediately prior to July 1, 1974.~~

DRAFTING NOTE: Obsolete language is deleted in subsection A, as well as references to subsections (f) and (g). Reference to the determination of retirement benefits in subdivision 1 of subsection A of the higher of 1.5 percent of average final compensation or 1.65 percent of average final compensation minus \$1,200 is rewritten to provide 1.50 percent of the first \$13,200 of the average plus 1.65 percent of the average in excess of \$13,200. This change in the formula does not change the amount of benefits payable. However, the last sentence which is being



inserted would provide increased benefits for those members with 35 or more years of service. Members of the General Assembly are included in the proposed definition of "state employee" so references to members of the General Assembly were removed in the provision on early retirement. Language inserted in proposed subdivision 3 of subsection A provides that these members will not be subject to certain restrictions on post-retirement supplements. Wording is inserted in subdivision 3 of subsection A to allow for early retirement under the Rule of 90. This provision was moved from former § 51-111.55:1 and reworded for clarification. Existing subdivisions (c), (d), and (e) are of limited application and have been moved to proposed § 51.1-403. Subsection (g) is repealed since the Tax Reform Act of 1986 does not allow retirement benefits to be reduced by social security. Other changes are language revisions only.

§ 51-111.55:1. Same; provisions applicable to persons becoming members after March 31, 1980, and certain others. ~~A. Retirement allowance. - Upon retirement as provided in § 51-111.53, on or after July 1, 1987, a member shall receive an annual retirement allowance, payable monthly to him for life, subject to the provisions of subsections C and D of this section, determined in accordance with subdivision 1, 2 or 3, whichever is applicable:~~

~~1. Normal retirement under § 51-111.53 A. - An allowance equal to (i) 1.5 percent of his average final compensation multiplied by his number of years of creditable service, or (ii) 1.65 percent of his average final excess compensation multiplied by his number of years of creditable service, whichever is larger.~~

~~2. Early retirement under § 51-111.53 B; applicable to teachers, state employees, members of the General Assembly, and certain others. - An allowance which shall be determined in the same manner as for retirement at his normal retirement date with years of creditable service, average final compensation and average final excess compensation being determined as of the date of his actual retirement; provided, that if the member has less than thirty years of service at such date, the amount of the retirement allowance so determined shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which his number of years of creditable service would have been thirty had he been continuously in service from his date of retirement until such first date. The provisions of this subdivision shall apply to teachers, state employees and members of the General Assembly. These provisions shall also apply to employees of any local governmental entity that participates in the Virginia Supplemental Retirement System pursuant to Article 4 (§ 51-111.31 et seq.) of this chapter if the governmental entity makes the election provided in subdivision 3 of this subsection.~~

~~3. Early retirement under § 51-111.53 B; applicable to employees of certain local governmental entities. - An allowance which shall be determined in the same manner as for retirement at his normal retirement date with years of creditable service and average final compensation being determined as of the date of his actual retirement; provided, that if the member either has not attained his sixtieth birthday at his date of retirement, or has less than thirty years of service at such date, the amount of the retirement allowance so determined shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which his number of years of creditable service would have been thirty or more and the sum of his number of completed full years of creditable service plus his attained age in years at his preceding birthday would have been equal to ninety or more had he been continuously in service from his date of retirement until such first date. The provisions of this subdivision shall apply to the employees of any local governmental entity that participates in the Virginia Supplemental Retirement System pursuant to Article 4 of this chapter. The participating governmental entity may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2 of this subsection. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.~~

~~B. Determination of retirement allowance. - For the purposes of subsection D of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance as provided in § 51-111.60 is elected.~~

~~C. Beneficiary serving in position covered by this chapter. - Should a beneficiary of a service retirement allowance under this chapter or the abolished system be in service at any time as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 3.1 (§ 51-111.1 et seq.) of this title, his retirement allowance shall cease while so employed.~~

~~D. Maximum retirement allowance. - The foregoing subsections of this section to the contrary notwithstanding, the maximum retirement allowance payable under this chapter shall not exceed~~



62.5 percent of average final compensation plus one-half of the primary social security benefit computed as follows: On and after July 1, 1980, no member shall receive a retirement allowance payable under the provisions of this section which, when added to one-half of the primary social security benefit (computed on an estimated basis and for calculation for any member prior to reaching age sixty-five, computed on an estimated basis, as if the employee remained in active employment until age sixty-five at such member's most recent salary) to which he is or would be entitled at his sixty-fifth birthday under federal law, will be in excess of 62.5 percent of his average final compensation. In no event, however, shall the application of this subsection have the effect of reducing the member's retirement allowance below the larger of (i) the retirement allowance that would have been payable in the absence of this subsection but based only on the creditable service of the member rendered prior to July 1, 1981, or (ii) the retirement allowance that would have been payable in the absence of this subsection had the member's creditable compensation for each period of his credited service rendered after June 30, 1981, been at the same annual rate as in effect on such date.

E. Contribution refund. - Any member whose retirement allowance hereunder is reduced through the application of subsection D of this section shall receive at his date of retirement, in addition to the retirement allowance provided in this article, a single payment out of his accumulated contributions. The amount of such payment shall be the sum of (i) such member's total contributions without interest multiplied by a fraction wherein the numerator is the benefit provided by subsection A of this section less the benefit resulting from the application of subsection D of this section and the denominator is the benefit provided by subsection A of this section, and (ii) interest on such refundable contributions at a rate determined by the Board to approximate the actual investment yield for each fiscal year during which the refundable contribution was made (based on the assumption that the contributions last made will be the first used in computing such interest) less (iii) a reasonable amount as estimated by the Board to equal the cost of administration of such account.

F. Application of section. - The provisions of this section shall not apply to any member of the retirement system on March 31, 1980, or to any member whose benefit is based on service rendered prior to that date.

DRAFTING NOTE: This section is being repealed because of the revised benefit structure. Language regarding early retirement under the Rule of 90 in subdivision 3 of subsection A is reworded and moved to proposed § 51.1-155.

§ 51-111-56 51.1-156 . Disability retirement.- (a) Any A. At any time before his normal retirement date, any member in service or within ninety days after termination of service ; except as provided in subsection (d), may ; at any time before his normal retirement date, retire on account of for disability not compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.) upon written notification to the Board ; setting forth at what the date the retirement is to become effective. Such effective date shall be after his last day of service but shall not be more than ninety days prior to the filing of such notification. In addition, the Medical Board, after a medical examination of the member or after reviewing pertinent medical records, shall certify that (i) such member is, and has been continuously since such effective date if prior to the filing of such notification, mentally or physically incapacitated for the further performance of duty, (ii) such incapacity is likely to be permanent and (iii) such member should be retired.

(b) B. Any member in service or within ninety days after termination of service ; except as provided in subsection (d), may retire on account of for disability from a cause compensable under the Virginia Workers' Compensation Act ; upon written notification to the Board setting forth at what the date the retirement is to become effective. Such effective date shall be after his last day of service, but shall not be more than ninety days prior to the filing of such notification. In addition, the Medical Board, after a medical examination of the member or after reviewing pertinent medical records shall certify that (i) such member is, and has been continuously since such effective date if prior to the filing of such notification, mentally or physically incapacitated for the further performance of duty, (ii) such incapacity is likely to be permanent and (iii) such member should be retired.

(c) In the event C. If no compensation is finally awarded under the Virginia Workers' Compensation Act with respect to the disability of a member , due to legal proceedings or otherwise resulting in settlement from the person, or persons causing such the disability, the Virginia Industrial Commission ; upon request of the Board, shall for the purpose of this section determine whether such the member's disability was is from a cause compensable under the Virginia Workers' Compensation Act.

(d) D. The effective date of retirement shall be after the member's last day of service but shall not be more than ninety days prior to the filing of the notice of retirement. The Board ; in

its sole discretion, may waive in accordance with rules, regulations and standards prescribed by the Board, the ninety-day period of limitation on notification of termination because of disability as set forth in subsections (a) and (b) requirement upon a showing of good cause. Any decision of the Board on waiving such requirement shall be final and not subject to judicial review. The provisions of this section shall apply to any member in service on or after August 15, 1977.

(e) E. After a medical examination of the member or after reviewing pertinent medical records, the Medical Board shall certify that (i) the member is and has been continuously since the effective date of retirement if prior to filing of the notification, mentally or physically incapacitated for the further performance of duty, (ii) the incapacity is likely to be permanent, and (iii) the member should be retired. A member shall not be retired for disability for any condition which existed at the time of becoming a member unless medical evidence, convincing to the Board, supports the fact that such the pre-existing condition has worsened substantially.

(f) F. In the event the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit such notification on his behalf.

(g) G. Any member who has been on leave of absence without pay for a period exceeding twenty-four months shall not be entitled to retire under the provisions of this section.

(h) No member who applied for benefits between March 1, 1987, and March 31, 1987, shall be denied benefits solely because of the provisions of subsection (g) of this section.

DRAFTING NOTE: Duplicate language deleted in subsections (a) and (b) is combined in proposed subsections D and E. Language providing that the Board's decision is not subject to judicial review was removed because it is probable that the Board's decision could be appealed. The last sentence in subsection (d) is deleted because it is unnecessary and subsection (h) is deleted because it is of limited application and obsolete. Other changes are language revisions only.

§ 51-111.57 51.1-157 . Disability retirement allowance ; provisions applicable to persons who were members on March 31, 1980, and certain others . - (a) A. Allowance payable on retirement . - Upon retirement as provided in § 51-111.56 on or after July 1, 1974 for disability , a member who has five or more years of creditable service shall receive an annual retirement allowance payable monthly during his lifetime and continued disability equal to (A) 1.5 percent of his average final compensation or (B) 1.65 percent of his average final compensation minus \$1,200, whichever is larger, when multiplied by the smaller of : (i) Twice twice the number of his years amount of his creditable service ; or (ii) The number of years the amount of creditable service he would have completed at age sixty if he had remained in service to that age ; or in the case of . If a member who has already attained age sixty, the number of his years amount of creditable service at his date of retirement ; subject to the provisions of subsections (b), (c) and (d) of this section shall be used .

In the case of any beneficiary retired for disability on or after March 1, 1962, and prior to July 1, 1966, who has attained his sixty-fifth birthday prior to July 1, 1970, and whose retirement allowance has been recomputed as a service retirement allowance, the annual retirement allowance payable on and after July 1, 1970, shall be equal to twelve-elevenths of the allowance theretofore paid. In the case of any such beneficiary who has not attained his sixty-fifth birthday prior to July 1, 1970, and whose allowance is not computed under a specific provision relating to a "law-enforcement officer disability allowance," the allowance payable on and after July 1, 1970, shall be equal to the allowance theretofore paid subject to the provisions of subsection (c) of this section, until his sixty-fifth birthday. On and after the sixty-fifth birthday of such a beneficiary, the allowance payable shall be equal to the service retirement allowance for normal retirement determined in accordance with subdivision (1) of subsection (a) of § 51-111.55, except that subsection (c) of § 51-111.55 shall not apply, on the assumption that his creditable compensation on the date of disability retirement continued in the same amount up to his sixty-fifth birthday and on the assumption that years of creditable service at normal retirement included both the creditable service prior to disability retirement and the period of disability retirement.

(b) Disability retirement guarantee. - The disability retirement allowance payable to a former member of the abolished system who transferred his accumulated contributions to the retirement system and who has not withdrawn such contributions prior to such retirement, shall be at least an amount which, when added to one-half of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date, would equal the disability retirement allowance to which the individual would have been entitled under the provisions of the abolished system.

~~(c) Minimum disability retirement allowance. - Notwithstanding the provisions of subsection (a) of this section, the amount of annual retirement allowance as determined under this section shall, effective five months after retirement date and subject to the provisions of subsection (e) of this section, be at least an amount which when added to one-half of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date would equal \$1,000 or twenty-five percent of average final compensation, whichever is larger; provided further, the annual amount of the combined retirement system allowance and one-half of primary social security benefit for any member retired or retiring and credited with twenty or more years of service at the time of retirement shall, effective five months after retirement date, and subject to the provisions of subsection (e) of this section, not be less than the retirement allowance payable excluding post-retirement supplements of the type provided for in § 51-111.60:1, but including increases provided by the General Assembly of Virginia, to former members retired for disability under the provisions of the retirement acts in effect prior to March 1, 1952.~~

~~(d) Special disability retirement B. Workers' compensation guarantee. - Notwithstanding the provisions of subsection (a) of this section, if If a member retires after June 30, 1966, for disability under the provisions of subsection (b) of § 51-111.56 from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.) , the amount of the annual retirement allowance as determined under this section shall, subject to the provisions of subsections (e) and (f) of this section, be at least an amount which when added to one-half of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date would equal two-thirds of the member's average final compensation shall equal sixty-six and two-thirds percent of the member's average final compensation if the member does not qualify for disability benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for disability benefits under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal fifty percent of his average final compensation . A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection (a) of this section A or under the provisions of this subsection.~~

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

~~(f) C. Reduction of allowance by amount of payments under Workers' Compensation Act . - Any allowance payable to a member who is disabled retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.) shall be reduced by the amount of any payments under the provisions of the Virginia Workers' Compensation Act in effect on the date of retirement of the member and the excess of the allowance ; if any, shall be paid to such the member. When the time for compensation payments of the compensation under such the Act has elapsed, the member shall thereafter receive the full amount of such the allowance payable monthly during his lifetime and continued disability. If such the member's payments under the Virginia Workers' Compensation Act are reduced or stopped adjusted or terminated for refusal to work or to comply with the requirements of § 65.1-38, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.~~

~~(g) Maximum retirement allowance. - On and after July 1, 1974, no member shall receive a retirement allowance payable hereunder which, when added to one-half of the primary social security benefit to which he is entitled under federal law, will be in excess of his average final compensation. In no event shall benefits payable for service credited prior to July 1, 1974, be less than the benefits that would have been payable had they been calculated under the benefit formula in effect immediately prior to July 1, 1974.~~

~~(h) D. Special retirement allowance guarantee. - Any member retired under the provisions of subsection (a) of § 51-111.56 from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance payable monthly during his lifetime and continued disability which when added to sixty-four percent of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date, would equal fifty percent of the average final compensation of such member equals fifty percent of the member's average final compensation if the member does not qualify for disability benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for disability benefits under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal thirty-three and one-third percent of his average final compensation .~~

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

DRAFTING NOTE: The 1.5 percent formula is deleted in subsection (a) and the \$1,200 exclusion is deleted in the 1.65 percent formula. These changes will provide the same disability benefits for all members with five or more years of service. The second paragraph of subsection (a) is not retained because it is of limited application. Subsections (b) and (c) are moved to § 51.1-404 because of their limited application. The work-related disability formula in existing subsection (d) is changed since retirement benefits may no longer be reduced by Social Security. Existing subsection (e) is moved to proposed subsection E. Existing subsection (g) is stricken because the integration of social security benefits is no longer permitted. Provisions of existing subsection (h) are revised because the integration of social security benefits is no longer permitted.

~~§ 51-111.57-1. Same; provisions applicable to persons becoming members after March 31, 1980, and certain others.—(a) Allowance payable on retirement. - Upon retirement as provided in § 51-111.56 on or after July 1, 1980, a member who has five or more years of creditable service shall receive an annual retirement allowance payable monthly during his lifetime and continued disability equal to (A) 1.5 percent of his average final compensation or (B) 1.65 percent of his average final excess compensation, whichever is larger when multiplied by the smaller of:~~

~~(i) Twice the number of his years of creditable service; or~~

~~(ii) The number of years of creditable service he would have completed at age sixty if he had remained in service to that age, or in the case of a member who has already attained age sixty, the number of his years of creditable service at his date of retirement.~~

~~(b) ; (c) -Repealed.-~~

~~(d) Special disability retirement guarantee. - Notwithstanding the provisions of subsection (a) of this section, if a member retires after June 30, 1980, for disability under the provisions of subsection (b) of § 51-111.56, the amount of annual retirement allowance as determined under this section shall, subject to the provisions of subsections (e) and (f) of this section, be at least an amount which when added to one-half of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date would equal two-thirds of the member's average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection (a) of this section or under the provisions of this subsection.~~

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

~~(f) Reduction of allowance by amount of payments under Workers' Compensation Act. - Any allowance payable to a member who is disabled from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.) shall be reduced by the amount of any payments under the Virginia Workers' Compensation Act and the excess of the allowance, if any, shall be paid to such member. When the time for payments of the compensation under such Act has elapsed, the member shall thereafter receive the full amount of such allowance payable monthly during his lifetime and continued disability. If such member's payments under the Workers' Compensation Act are reduced or stopped for refusal to work or to comply with the requirements of § 65.1-88, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.~~

~~(g) Maximum retirement allowance. - On and after July 1, 1980, no member shall receive a retirement allowance payable hereunder which, when added to one-half of the primary social security benefit to which he is entitled under federal law, will be in excess of his average final compensation.~~

~~(g1) Special retirement allowance guarantee. - Any member retired under the provisions of subsection (a) of § 51-111.56 shall be guaranteed an annual retirement allowance payable monthly during his lifetime and continued disability which when added to sixty-four percent of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date, would equal fifty percent of the average final compensation of such member.~~

~~(h) Application of section. - The provisions of this section shall not apply to any member of the retirement system on March 31, 1980, or to any member whose benefit is based on service~~

rendered prior to that date.

DRAFTING NOTE: This section is being repealed. Because pre- and post- March 31, 1980, employees will have the same benefit structure, there is no longer a need for separate disability retirement allowance sections.

~~§ 51-111.59:1 51.1-158 . Reduction of benefits for acceptance of lump-sum settlement under Workers' Compensation Act.—The retirement allowance (i) of any member retiring under a for disability pursuant to subsection (d) of § 51-111.57 or subsection (d) of § 51-111.57:1 from a cause compensable under the Virginia Workers' Compensation Act or (ii) of any widow surviving spouse , minor child , or parent of parents , eligible to receive a benefit pursuant to § 51-111.58:1 C as a result of the death of a member from a cause compensable under the Virginia Workers' Compensation Act , who elects to receive a lump-sum settlement in lieu of periodic payments for disability or death compensable under the Virginia Workers' Compensation Act (§ 65-11 et seq.) shall cease or be reduced, as the case may be, each month for a period of months be adjusted by an amount determined by dividing the workers' compensation benefit which such person would have received had the lump-sum settlement not been consummated, into the settlement actually accepted by the member, widow surviving spouse , child, or parent of parents .~~

DRAFTING NOTE: Language revisions only.

~~§ 51-111.61 51.1-159 . Medical examinations of beneficiary of persons retired for disability retirement allowance .—A. Once each year following the retirement of a member on a disability retirement allowance, the Board may require any such beneficiary prior to his normal retirement date to undergo a medical examination by the Medical Board or a physician or physicians designated by the Medical Board. Should such a beneficiary refuse to submit to any such medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal. Should such refusal continue for a period of six months, all his rights to any further disability allowance shall cease, subject to the provisions of § 51-111.63. Once each year following retirement, the Board may require a former member who retired for disability and who has not attained his normal retirement age to undergo a medical examination by the Medical Board or a physician or physicians designated by the Medical Board. If the former member refuses to submit to the required medical examination, his retirement allowance shall be discontinued until he complies. If he does not comply within six months of the date of the request, all of his rights to any further disability retirement allowance shall cease, subject to the provisions of § 51.1-160.~~

~~B. Should If the Medical Board determine determines that a beneficiary is no longer disabled after reviewing the findings of any of the medical examinations provided for in subsection A of this section, all rights to any further disability allowance shall cease, subject to the provisions of § 51-111.63 51.1-160 .~~

DRAFTING NOTE: Subsection A was rewritten for clarity. Subsection B contains language revisions only.

~~§ 51-111.63 51.1-160 . Cessation of disability retirement allowance.— (a) A. If a beneficiary of a disability retirement allowance returns to service prior to his normal retirement date, his disability retirement allowance shall cease and he shall become a member of the retirement system and shall thereafter contribute. Any prior service certificate on the basis of which his disability retirement allowance was computed shall be restored and, in addition, he shall be credited with all of his previous membership service which shall include including the period of disability retirement.~~

~~(b) B. The balance of any contributions of such the beneficiary in excess of the disability retirement allowances allowance received by him shall be transferred from the retirement allowance account to the members' contribution account.~~

~~(c) Should C. If disability benefits be are terminated as set forth in subsection B of § 51-111.61 51.1-159 , a beneficiary may (i) receive a refund of any accumulated contributions in excess of the disability retirement allowances allowance received by him, in which case all rights to any further benefits payable under this chapter shall cease, (ii) return to service, in which case the provisions of subsections (a) A and (b) B of this section shall apply, or (iii) receive a deferred service allowance upon attaining the early retirement age if the total of the prior membership service and the period of disability retirement meet the creditable service requirements set forth in subsection C of § 51-111.53 or § 51-150 or subsection D of § 51-167 for deferred retirement for members terminating service .~~

~~(d) D. The retirement system shall have no responsibility for the reemployment of a beneficiary in a covered position.~~

DRAFTING NOTE: Language revisions only.

~~§ 51-111.58~~ 51.1-161 . Withdrawal of contributions before retirement.—A. If a member has ceased to be an employee, ~~otherwise other than by death or by retirement under the provisions of this chapter~~ , he shall be paid, on demand or as soon thereafter as practicable, the ~~amount of~~ ~~may receive a refund of~~ his accumulated contributions reduced by the amount of any retirement allowances ~~allowance~~ previously received by him under any of the provisions of this chapter or the abolished system.

B. ~~Notwithstanding any provision in subsection A of this section to the contrary, a member who retires under the provisions of subsection (b) of § 51-111.56 shall be refunded the amount of his accumulated contributions. Accumulated contributions shall be refunded to a member upon retirement for disability from a cause which is compensable under the Virginia Workers' Compensation Act or to his designated beneficiary upon the death of the member from a cause which is compensable under the Virginia Workers' Compensation Act.~~

DRAFTING NOTE: Language is inserted in subsection B to provide for a refund of accumulated contributions to the beneficiary of a member if the death of the member is from a cause which is compensable under the Virginia Workers' Compensation Act. Subsection A of proposed § 51.1-162 provides that if no benefits are payable under subsection B of that section, a refund of contributions and interest shall be payable to the designated beneficiary of the member. This wording was used in 1966 to provide for a refund if benefits were payable under subsection C of that section, which refers to death from a cause compensable under the Virginia Workers' Compensation Act. Prior to 1988, no benefits were payable under subsection B until a member had attained age 55 or rendered 30 years of service. In 1988, the wording of subsection B was amended to provide survivor annuities to beneficiaries of all members who die in service regardless of age. In order to clarify that a refund is to be made to the beneficiary if the death of the member is compensable under the Workers' Compensation Act, wording is being inserted in subsection B of this section. Other changes are language revisions only.

~~§ 51-111.58;1~~ 51.1-162 . Death before retirement.—A. ~~Should a member die at any time before retirement, and if no benefits are payable under subsection B of this section, the amount of his accumulated contributions, reduced by the amount of any retirement allowance previously received by him under this chapter or the abolished system, shall be paid to such person, if any, as he has nominated by written designation made on a form prepared by the Board, signed and acknowledged by such member before some person authorized to take acknowledgments and filed with the Board, otherwise to his executors or administrators. Any such designation may be changed by the member by the written designation of some other person, signed, acknowledged and filed as aforesaid. Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed and acknowledged by the member before a person authorized to take acknowledgments, and filed with the Board. The designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed with the Board. If the death of the designated person occurs prior to the death of the member and another designation has not been made, payment shall be made to the executors or administrators of the estate of the member.~~

~~In the event~~ If no designation has been made, ~~then such~~ the proceeds shall be paid to the ~~person or~~ persons surviving at the death of the member in the following order of precedence:

First, to the ~~widow or widower~~ spouse of ~~such~~ the member;

Second, if ~~none of the above~~ no surviving spouse , to the ~~child or~~ children of ~~such~~ the member and descendants of deceased children, per stirpes;

Third, if none of the above, to the parents of ~~such~~ the member ~~or the survivor of them~~ ;

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

Fifth, if none of the above, to other next of kin of ~~such~~ the member entitled under the laws of the domicile of ~~such~~ the member at the time of his death.

If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to the persons qualifying in the order of precedence. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter or the abolished system.

B. ~~Should~~ If a member dies in service die at any time before retirement and if no benefits



are payable under subsection C of this section there shall be paid, a retirement allowance shall be paid to the person nominated ~~designated~~ as provided in subsection A of this section if such the person is the (i) wife, (ii) husband, ~~(iii) surviving spouse~~, (ii) minor child, ~~(iv) (iii) mother~~, or ~~(v) (iv) father~~ of the member. ~~Such~~ The retirement allowance shall be paid to the first person qualifying in the ~~preceding~~ order of precedence; ~~however, if set out in this subsection.~~ If more than one minor child survives the deceased member, the allowance shall be divided among them in ~~such~~ a manner as ~~determined by the Board may determine~~. ~~Such~~ The retirement allowance shall be continued during the lifetime of ~~such the person or~~ in the case of a minor child until ~~such time~~ as the child dies or attains the age of majority, whichever shall first occur, and shall be, (1) in the case of ~~occurs first.~~ If a member who dies prior to attaining his sixty-fifth birthday, ~~an~~ the allowance shall equal to one-half of the retirement allowance that would have been payable to the member had the member retired under the provisions of subsection B of § 51-111.53 for early service retirement on the date of his death after having ~~and~~ elected to have his allowance payable under the joint and last - survivor option described in subdivision (a) (2) of § 51-111.60 so that one-half thereof would be continued after his death to such person, and in . In the case of a member who had not attained his fifty-fifth birthday at his date of death, it shall be assumed that the member's age at his date of death is fifty-five for the purpose of reducing the benefit on an actuarial equivalent basis; ~~or (2) in the case of .~~ If a member who dies after attaining his sixty-fifth birthday, ~~an~~ the allowance shall equal to the decreased retirement allowance that would have been payable to the member had the member retired under the provisions of subsection A of § 51-111.53 on the date of his death after having ~~and~~ elected to have his allowance payable under the joint and last - survivor option described in subdivision (a) (2) of § 51-111.60 so that the same amount would be continued after his death to such person. Provided that in the determination of ~~When determining~~ the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subdivision (2) 4 of subsection (a) and subsections (c) and (d) A of § 51-111.55 51.1-155 shall not apply; and provided further, that if such . If the person so elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions; reduced by the amount of any retirement allowance previously received by him under this chapter or the abolished system, shall be paid to such person him exclusively, in lieu of any other benefits under this section.

Should a member die subsequent to meeting the service, age or both service and age requirements, as appropriate, of this subsection B, having nominated and designated a trust as the recipient of his benefits, the trust nominated shall be entitled to disclaim its rights to payment under subsection A of this section by written notification to the Board within ninety days after the death of such member. In the event of such a disclaimer, the monthly retirement allowance shall be paid to the beneficiary of the nominated trust just as if such beneficiary had been nominated by written designation by the member as required in subsection A of this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter.

C. ~~Should~~ If a member die ~~dies~~ in service at any time before retirement from a cause compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.), an annual a retirement allowance shall be paid to the widow or widower, if any, of such member ~~member's surviving spouse~~. In the event If no compensation is finally awarded under the Virginia Workers' Compensation Act with respect to the death of a member, due to legal proceedings or otherwise resulting in settlement from the person or persons causing such death, the Virginia Industrial Commission; upon request of the Board, shall for the purpose of this section determine whether ~~such the~~ member's death was from a cause compensable under the Virginia Workers' Compensation Act. If ~~such the~~ member leaves no widow or widower, ~~surviving spouse~~ or the widow or widower ~~surviving spouse~~ dies or remarries, then the any minor child or children; if any, of the deceased member; shall be paid an allowance until such child or the children die or attain the age of majority, whichever shall first occur occurs first. If more than one minor child survives the deceased member, the allowance shall be divided among them in such a manner as determined by the Board may determine. If the deceased member leaves neither widow, widower ~~surviving spouse~~ nor minor child, then ~~such the~~ allowance shall be paid to the member's parent or parents wholly dependent upon him for support, divided in such a manner as determined by the Board may determine, during the life or lives of such parent or the parents.

The retirement allowance payable hereunder to a qualifying survivor or survivors, shall be the annual amount; payable monthly, which when added to one-half of the social security benefit payable to such qualifying survivor or survivors as result of coverage of the member under the federal Social Security Act and the compensation payable under the Virginia Workers' Compensation Act for the death of the member; shall be equal to one-half equals fifty percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the



member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the retirement system when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation .

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

DRAFTING NOTE: Subsection A is rewritten for clarity. The last paragraph in subsection B is deleted because of limited application. Language in the second paragraph of subsection C offsetting the payment by one-half of the social security benefit is deleted since the Tax Reform Act of 1986 no longer permits such an offset. However, wording is inserted to provide a lower benefit if the survivor is receiving social security. Other changes are language revisions only.

~~§ 51-111.50~~ 51.1-163 . Death after retirement.—If a member dies after the effective date of his retirement under this chapter , the any excess ; if any of his accumulated contributions as of the effective date of his retirement, over the total retirement allowances received by him , shall be paid in the same manner as provided in subsection A of § ~~51-111.58:1~~ in the case of death before retirement 51.1-162 unless the retirement allowance is then being paid in accordance with any of the options of § ~~51-111.60~~ optional benefits .

DRAFTING NOTE: No change in the law.

~~§ 51-111.58:2~~ 51.1-164 . Disbursement by affidavit.—If it is determined that payment under § ~~51-111.58:1~~ or § ~~51-111.50~~ is to be made to the estate of a member or former member and there has been no appointment of a representative of the estate within the sixty days following the death of the member or former member, payment may be made to a person claiming to be the successor of the decedent upon presentation of an affidavit. Such The affidavit shall certify that (i) that the value of the entire personal probate estate, wherever located, does not exceed \$10,000, (ii) that no application for the appointment of a personal representative is pending or has been granted in any jurisdiction, (iii) that the will, if any, was duly probated and the list of heirs required by § 64.1-134 was duly filed, and (iv) that the claimant is entitled to payment and the basis upon which such entitlement is claimed. The list of heirs required by § 64.1-134 must also be filed with the retirement system Board .

Upon receipt of a properly executed affidavit, the retirement system Board is discharged and released to the same extent as if dealing with an appointed representative of the estate of the decedent. The retirement system Board shall not be required to see to the application of benefits or evidence thereof or to inquire into the truth of any statement in the affidavit. Any person to whom payment is made is answerable and accountable therefor to any appointed representative of the estate or to any other person having a superior right.

DRAFTING NOTE: References to the "retirement system" changed to "Board."

~~§ 51-111.60~~ 51.1-165 . Optional benefits.— (a) Each A. Any member shall have the right at any time, not subsequent to the later of the effective date of the member's retirement or the date of written notification to the Board of the retirement of the member, to may elect to have his retirement allowance payable under one of the options set forth in this section in lieu and receive the actuarial equivalent of the retirement allowance otherwise payable to him upon retirement under any of the provisions of this chapter. The amount of any such optional retirement allowance shall be the actuarial equivalent of the amount of such retirement allowance otherwise payable to him . The member shall make such an election by written request to the Board and such an election of an optional benefit shall be subject to the approval of the Board.

(1) 1. Straight life option. - A member may elect to receive an increased retirement allowance in lieu of any death benefits as provided in § ~~51-111.50~~ .

(2) 2. Joint and last-survivor option. - A member may elect to receive a decreased retirement allowance during his lifetime and have such the retirement allowance ( , or one-half thereof if so designated) , continued after his death to another person a contingent annuitant during the lifetime of such person ; however, if . If the member's retirement is for disability, the election of the retirement allowance to be continued after the member's death shall be limited to one-half of the decreased retirement allowance received by the member during his lifetime. In case of such an election, death benefits that might otherwise be provided under § ~~51-111.58:1~~ A and § ~~51-111.50~~ shall not be payable upon the death of the member unless death of the member occurs prior to the effective date of retirement as set forth in subsection (b) B of

this section. This option may not be elected by a member if the social security option of subdivision (a) (3) hereof 3 of this subsection has previously been elected, nor may it be elected if the other person to whom the allowance is to be continued after the death of the member contingent annuitant is not the spouse of the member and the actuarially computed present value of the payments expected to be made to the member is less than one-half of the actuarially computed combined present value of the total payments expected to be made to the member and such other person the contingent annuitant .

(3) 3. Social security option. - If a member retires from service prior to age sixty-five, he may elect to receive an increased retirement allowance up to age sixty-five and a decreased retirement allowance thereafter ; thereby providing a more nearly level retirement allowance when such decreased retirement allowance is added to his anticipated primary benefits under the federal Social Security Act. In determining the amount of such retirement allowance under this option before the electing retiree reaches the age of sixty-five, the . The Board may use an estimate of the member's anticipated social security benefit for computing the amount of such the retirement allowance. The election of this option shall automatically revoke any previous election under the a joint and last-survivor option of subdivision (a) (2) hereof .

(4) 4. Other options. - Some other benefits may be paid either to the member or to such person or persons as he shall elect; however, contingent annuitants he elects. However, the actuarially computed expected duration of the payment of any such benefits shall not exceed the actuarially computed life expectancy of the member and his spouse ; if any , and the actuarially computed present value of the payments expected to be made to the member shall be greater than one-half of the actuarially computed combined present value of the total payments expected to be made to the member and such other person or persons any contingent annuitant .

(b) B. The election by a member of any one of the options stated in this section shall be null and void if the member dies prior to retirement. The election of a member of the a joint and last-survivor option stated in subdivision (a) (2) hereof shall be null and void if the designated person contingent annuitant dies before the member's retirement. For purposes of this subsection, retirement shall be deemed to commence on (i) the effective date of a member's service retirement under §§ 51-111.53, 51-150, or § 51-167, or (ii) in the case of disability retirement under §§ 51-111.56, 51-152, or § 51-169 , sixty days after the Board receives written notification from the member or his employer of the effective date of such the disability retirement in which case a retirement allowance . If the death of the member occurs prior to meeting the sixty-day requirement, benefits shall be paid to the designated person in accordance with subsection B the provisions of § § 51-111.58:1, 51-156 or § 51-173, provided such designated person is the wife, husband, mother, or father of the former member 51.1-162 .

(c) C. A member who has elected any one of the options stated in this section may ; at any time prior to the later of the effective date of the member's retirement or the date of written notification to the Board of retirement of the member, revoke such an election by written notification to the Board any time prior to the later of the effective date of retirement or the date of written notification to the Board of retirement of the member .

(d) Notwithstanding any provisions of subsections (a) and (b) of this section to the contrary, a D. A retired member who has elected the a joint and last-survivor option provided under subdivision (2) of subsection (a) of this section, may, by written notification to the Board, revoke such election and ; elect to receive from time of notification either the retirement allowance to which he would have been entitled had no option been elected initially or an allowance actuarially equivalent thereto under a joint and last-survivor option with a different contingent annuitant ; provided that either , if (i) the original contingent annuitant has died, or (ii) a final decree of divorce of the retired member from the original contingent annuitant has been entered, or (iii) the written consent of the original contingent annuitant, together with evidence satisfactory to the Board of the good health of the original contingent annuitant, is submitted with the notification. If the provisions of this subsection are invoked by a retired member on the basis of the member's having been divorced from his contingent annuitant ; and the marriage had been of a duration of twenty years or more, the provisions of this subsection shall not be applicable until the death or remarriage of the former spouse unless such spouse consents in writing to the revocation of the option prior to such death or remarriage.

Notwithstanding the provisions of subsection (a) of § 51-111.16, should If such an election be is made as a result of the death or divorce of the contingent annuitant, the benefit payable to the retired member may be adjusted retroactively for a period of not more than sixty days from the date the Board first receives notification of the desire of the retired member to make such a change.

(e) E. Subject to the provisions of subsection (d) D of this section, any member who retires

on or after July 1, 1986, and returns to covered employment shall not be entitled to select a different optional benefit upon making application for retirement a second time.

DRAFTING NOTE: Language revisions only.

~~§ 51-111.60:1 51.1-166 . Post-retirement supplements generally.— (a) A. In addition to the allowances payable under §§ 51-111.55, 51-111.55:1, 51-111.57, 51-111.57:1, 51-111.58:1 and 51-111.60 of this chapter, post-retirement supplements shall be payable in accordance with the provisions of this section to the recipients of such allowances. Such supplements Supplements shall be subject to the same conditions of payment as are such allowances.~~

~~(b) B. The amounts of the post-retirement supplements provided for hereunder shall be determined as percentages of the allowances supplemented hereby. The percentages shall be determined annually by reference to the increase ; if any, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor ; from its monthly . The percentages shall be based on monthly averages and shall be the difference between the average for the calendar year in which the allowance initially commenced as a result of the death or retirement of a member of the system to its monthly and the average for the calendar year immediately prior to the calendar year as of in which the amount of the post-retirement supplement is determined; however, for a recipient of an allowance under § 51-111.55 (a) (2) or § 51-111.55:1 A 2 who has thirty or more years of creditable service and has not attained his fifty-eighth birthday at his retirement date, the first post-retirement supplement shall not be payable until the calendar year in which the recipient attains his sixtieth birthday, and the calendar year in which the member attains his fifty-eighth birthday shall be considered to be the calendar year in which the allowance initially commenced paid . The annual increase in the Consumer Price Index for years after 1975, shall be considered only to the extent of three percent plus one-half of such additional increase up to seven percent.~~

~~(c) Amounts of post-retirement supplements shall be determined as provided in subsection (a) as amended, as of July 1, 1978, and successively annually thereafter except as may be otherwise determined by the General Assembly of Virginia. No C. There shall be no change in the amount of any post-retirement supplement shall be effected between determination dates except as necessary to reflect changes in the amount of the allowance being supplemented ; to the end that any . The post-retirement supplement shall remain a constant percentage of the respective allowance being supplemented ; nor shall any . No new post-retirement supplement shall be commenced except as of a determination date. The post-retirement supplement determined as of any determination dates shall become effective as of the payment date next following such determination date, at the beginning of the fiscal year and shall be in lieu of any post-retirement supplements previously payable, which shall thereupon be terminated.~~

~~D. A recipient of an allowance under § 51.1-155 A 2 who has thirty or more years of creditable service and has not attained his fifty-eighth birthday at his retirement date shall receive the first post-retirement supplement in the calendar year in which he attains his sixtieth birthday. The calendar year in which the recipient attains his fifty-eighth birthday shall be considered to be the calendar year in which the allowance initially commenced.~~

DRAFTING NOTE: Obsolete dates are removed in existing subsections (b) and (c). Language deleted in existing subsection (b) is moved to proposed D for better arrangement. Other changes are language revisions only.

~~§ 51-111.60:2. Ten percent increase in retirement allowances.—On and after July 1, 1973, the retirement allowance payable to each beneficiary prior to that date under this chapter, the repealed Virginia Retirement System or Chapter 36 of the Code of 1919 as it existed immediately prior to July 1, 1942, shall be increased by ten per centum. From July 1, 1973, to July 1, 1974, any retirement allowance which becomes payable under this chapter shall be increased by ten per centum.~~

DRAFTING NOTE: This section is being repealed because it is of limited application and any beneficiaries will be covered by proposed § 51.1-402.

~~§ 51-111.60:3. Increased benefits for certain retired teachers formerly subject to discriminatory pay policies.—(1) Any former public school teacher who retired prior to January 1, 1959, and whose present retirement allowance is less than it would have been but for any discriminatory pay policy which considered race, shall be entitled in the future to receive such retirement benefits as he would have been entitled had no such discriminatory policy existed.~~

~~(2) The actuary of the Virginia Supplemental Retirement System is hereby authorized to establish such amounts as provided in subsection (1) hereof, and certify same to the Board of Trustees of the Virginia Supplemental Retirement System, who shall make such payments as of July 1, 1973, or at such time or times thereafter as may be practical, or as provided by law, but~~

in no event shall said payments be made without appropriations therefor to Trust Fund B.

DRAFTING NOTE: This section is being repealed because it is of limited application and any beneficiaries will be covered by proposed § 51.1-402.

§ 51-111.60:4. Minimum retirement allowance.—(a) Notwithstanding any other provisions of this title, on and after July 1, 1974, the amount of annual retirement allowance otherwise payable to any former teacher or state employee (i) with service retirement and thirty years of creditable service and who has attained the age of sixty-five years or (ii) with disability retirement and twenty years of creditable service, who was retired under the provisions of Chapter 36 of the Code of 1919 as it existed immediately prior to July 1, 1942, the repealed Virginia Retirement Act or the Virginia Supplemental Retirement Act, shall be not less than the minimum annual retirement allowance guaranteed, on and after July 1, 1973, by §§ 51-111.60:2, 51-111.70, 51-111.70:1 and 51-111.70:2 to such a teacher or State employee who was retired under the provisions of the repealed Virginia Retirement Act, diminished by an amount equal to one half of the member's annual primary social security benefits as of July 1, 1974; provided, however, that nothing herein shall have the effect of decreasing the retirement allowance heretofore guaranteed to any retiree under this section.

(b) The minimum retirement allowance guaranteed under subsection (a) hereof shall be applied on a prorated basis, according to actual years of creditable service, to retirees who, but for a lesser number of years of creditable service, meet the criteria of subsection (a). Proration shall be based on thirty years of creditable service as a maximum.

(c) In the case of a retired employee who has elected one of the options under § 51-107 of the repealed Virginia Retirement Act or § 51-111.60, the minimum retirement allowance guaranteed under subsection (a) or (b) shall be increased or decreased by the same fractional amount as the retirement allowance was increased or decreased by such option. The minimum allowance guaranteed to a survivor beneficiary under options (2), (3) or (4) of the repealed § 51-107 or under options (a) (2) or (a) (4) of § 51-111.60 shall be controlled by the amount of the minimum retirement allowance guaranteed hereunder to the retired member under whom such beneficiary claims, or the minimum that would have been guaranteed to such member had this section been effective at the time of his retirement or death.

(d) The minimum allowances guaranteed under this section shall be supplemented through the application of § 51-111.60:1 to the same extent proportionately as the basic retirement allowance is supplemented under such section.

DRAFTING NOTE: This section is being repealed because it is of limited application and any beneficiaries will be covered by proposed § 51.1-402.

§ 51-111.64. Restoration to active service of former members of abolished system.—(a) If a former member of the abolished system who was receiving a disability retirement allowance under such system at the date of its abolition returns to service prior to his normal retirement date, he shall become a member of the retirement system and shall thereafter contribute.

(b) In the event of the restoration to service of a former member of the abolished system as stated in subsection (a) hereof an amount shall be transferred from Fund B to the retirement allowance account equal to the reserve value at the time of cessation of such former member's disability retirement allowance under the abolished system which was attributable to the State annuity thereunder, and the balance of any contributions under the abolished system of such former member not used to provide part of the disability retirement allowance such former member received under the abolished system shall be transferred from Fund B to Fund A.

(c) Said former member as stated in subsection (a) of this section shall have the right to receive such balance of his contributions as stated in subsection (b) hereof, or, if he authorizes the transfer within one year of restoration to service of such balance from Fund A to the member's contribution account, he shall be entitled to prior service credit for all years of service prior to the date of establishment of the retirement system including the period of disability retirement.

In addition such former member authorizing such transfer of balance of his contributions shall be entitled to membership credit in the retirement system for the period prior to his restoration to service during which he was on disability retirement under the abolished system.

DRAFTING NOTE: This section is being repealed because it is unlikely that former members of the abolished system who have been retired for disability for thirty-seven or more years will return to covered employment.

§ 51-111.65 51.1-167 . Annuity Retirement allowance to be reduced in certain cases.—In the case of any state employee whose compensation is not paid exclusively out of the state treasury

; and in the case of any teacher whose compensation is paid out of any fund not derived from local revenues or state appropriations, if any contributor ; other than the Commonwealth ; is in default in the payment of any required contribution payable by it pursuant to §§ 51-111.47 and 51-111.47:01 , then the total service or disability retirement allowance to which such the employee would have been entitled but for such the default shall be reduced by the amount of the retirement allowance provided by the defaulted contribution or contributions

DRAFTING NOTE: Language revisions only.

§ 51-111.66: Social security benefit proviso. If a beneficiary does not receive primary social security benefits to which he is entitled, such benefits shall nevertheless be considered as being received by such beneficiary for the purposes of this title.

DRAFTING NOTE: This section is being repealed since retirement benefits may no longer be reduced by social security.

§ 51.1-168. Maximum benefits; mandatory payment of allowance.—A. Notwithstanding any other provision of law, earned compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit shall not exceed the higher of \$200,000 or the amount determined by the Commissioner of the Internal Revenue Service as the limitation for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

B. Notwithstanding any other provision of law, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and (e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury pursuant to Section 415(d) of the Internal Revenue Code.

C. On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of (i) April 1 of the calendar year following the calendar year that the member attains seventy and one-half years of age or (ii) April 1 of the calendar year following the calendar year in which the member terminates employment.

DRAFTING NOTE: This section was added because its provisions are required by the Internal Revenue Code.

## CHAPTER 2.

### STATE POLICE OFFICERS' RETIREMENT SYSTEM.

CHAPTER DRAFTING NOTE: Both the current and the revised chapter on the State Police Officers' Retirement System contain a statement that the provisions of the Virginia Supplemental Retirement System apply to and govern the operation of the State Police Officers' Retirement System. Some of the provisions of the Virginia Supplemental Retirement System that apply to the State Police Officers' Retirement System are repeated in the current chapter on the State Police Officers' Retirement System and some are not. The recodification removed all language that is repetitive of provisions in the Virginia Retirement System. This allowed a number of sections to be repealed. There were several sections that were of limited application and either repealed if obsolete, moved to Chapter 4, entitled "Provisions Coordinating Past and Present Retirement Plans," or made into an uncodified act. Because of changes imposed by the Tax Reform Act of 1986, the benefit formula was changed from the greater of 1.50% of all average final compensation or 1.65% of average final compensation in excess of \$1,200 multiplied by the amount of creditable service to 1.50% of the first \$13,200 of average final compensation plus 1.65% of average final compensation in excess of \$13,200, multiplied by the amount of creditable service. Employees credited with thirty-five or more years of service receive 1.65% of average final compensation multiplied by the amount of creditable service. According to the actuary employed by the Virginia Supplemental Retirement System, the revised benefit formula results in a slightly higher benefit for employees with thirty-five or more years of service but does not change the benefit for other employees. Death and disability benefits have also been changed as explained in the Chapter 1 drafting note.

§ ~~51-143~~ 51.1-200 State Police Officers' Retirement system created System continued , administration; application of provisions of Virginia Supplemental Retirement Act System — (a) There is created a retirement system (hereinafter sometimes referred to as "system") for the State police officers of the Department of State Police (hereinafter referred to as "State police officers").

(b) The provisions of this chapter The State Police Officers' Retirement System is continued and shall be administered by the Board of Trustees of the Virginia Supplemental Retirement System. Except as otherwise provided in this chapter , the provisions of the Virginia Supplemental Retirement Act (§ 51-111.0 et seq.) are applicable and Chapter 1 (§ 51.1-100 et seq.) of this title shall apply to and govern the operation of the retirement system established

hereby *State Police Officers' Retirement System* .

DRAFTING NOTE: The word "Act" is changed to "System" in the catchline since § 51-111.9 designating the short title as the "Virginia Supplemental Retirement Act" is being repealed.

§ 51-144 *51.1-201* . Definitions.--As used in this chapter , unless a different meaning is plainly required by the context *requires a different meaning* :

(1) "Board" means the Board of Trustees as provided by § 51-111.17;

(2) "Medical Board" means the board of physicians as provided by § 51-111.26;

(3) "Employee" means a state police officer ; .

(4) "Member" means any person included in the membership of the retirement system as provided in § 51-145 or elsewhere in this chapter ; .

(5) "Service" means service as an employee; or as an inspector of the Department of Motor Vehicles prior to July 1, 1932;

(6) "Prior service" means service rendered prior to July 1, 1950, for which credit is available under § 51-146;

(7) "Membership service" means service rendered while a contributing member of the system, except as provided in § 51-146;

(8) "Creditable service" means prior service plus membership service for which credit is allowable under this chapter;

(9) "Beneficiary" means any person entitled to receive benefits under this chapter;

(10) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts and also any other amounts he shall have contributed or transferred thereto including interest credited thereon as provided in § 51-111.40;

(11) "Creditable compensation" means the full compensation payable annually to an employee working the full working time for his covered position. In cases where compensation includes maintenance or other perquisites, the Board shall fix the value of that part of the compensation not paid in money;

(12) "Average final compensation" means the average annual creditable compensation of a member during his thirty-six highest consecutive months of creditable service or during the entire period of his creditable service if less than thirty-six months. In the event a member ceased employment prior to July 1, 1974, "average final compensation" shall mean the average annual creditable compensation during the five highest consecutive years of creditable service;

(13) "Retirement allowance" means the retirement payments to which a member is entitled as provided in this chapter;

(14) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board;

(15) "Normal retirement date" means a member's sixtieth birthday ; and .

(16) "Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided; however, in any case in which the amount of a member's primary old age social security benefit at a date subsequent to such member's date of retirement is pertinent to the computation of benefits under this chapter other than under § 51-111.60:4, the amount of such social security benefit shall be computed as of the date of retirement of the member under the assumption that thereafter the member would have no earnings that would be considered as "wages" for the purpose of the federal Social Security Act.

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

DRAFTING NOTE: Definitions that have the same meaning as definitions in Chapter 1 were



not retained. These include the definitions of "accumulated contributions," "actuarial equivalent," "average final compensation," "beneficiary," "board," "creditable compensation," "creditable service," "medical board," "membership service," "prior service," "retirement allowance," and "service." Some of the definitions are revised for reasons explained in the drafting note for proposed § 51.1-101. An obsolete date in the definition of "prior service" and obsolete language in the definition of "service" were not retained. The definition of "primary social security benefit" is deleted since the Tax Reform Act of 1986 does not permit the integration of social security and retirement benefits. A definition of "retirement system" was added for clarification.

§ 51-145 51.1-202 Membership in retirement system.— (a) Membership in the retirement system shall be compulsory and shall consist of: all persons who were State police officers upon July 1, 1950, and for all persons who became or may become State state police officers or reenter service as State police officers after July 1, 1950 .

(b) The membership of any person in the system shall cease (i) upon the withdrawal of his accumulated contributions or (ii) upon retirement, or (iii) upon death.

(c) When membership ceases, except in the case of retirement, an employee shall thereafter lose all rights to any retirement allowance benefits under this chapter arising from service prior to the date of such cessation of membership, except as otherwise provided in subsection C of § 51-146.

DRAFTING NOTE: Subsection (a) is rewritten for clarity and obsolete dates are deleted. Subsections (b) and (c) are stricken because their provisions are included in proposed § 51.1-128 (existing § 51-111.29) and § 51.1-200 provides that the provisions of the Virginia Retirement System apply to and govern the operation of the State Police Officers' Retirement System. Section 51-111.29 was revised to add a provision for dormant accounts.

§ 51-146 51.1-203 . Creditable service.— A. Prior service credit of any member shall include service rendered prior to July 1, 1950, except that prior service credit for those members who elected not to be included in membership of the Virginia Retirement System shall be subject to the provisions of subsection B. The accumulated contributions of a member under the Virginia Retirement System shall, for purposes of this chapter, be considered to have been made hereunder:

B. Any member who elected not to be included in membership of the Virginia Retirement System shall be credited with his period of service, if any, prior to July 1, 1942, but not for the period between that date and July 1, 1950, except by making a payment as provided in subsection C, provided that if the member's contributions were withdrawn under former § 51-100 of the Virginia Retirement System or § 51-155 or corresponding previous provisions of this chapter, credit for all of the member's service since July 1, 1942, has been established or reestablished as provided in subsection C of this section.

C. Any member may be credited with all or part of his prior and/or membership service which might otherwise have been credited except for one or more of the following:

1. Rejection of membership in the Virginia Retirement System;
2. Cessation of membership under former § 51-49 and/or under § 51-146 or corresponding previous provisions of this chapter because of withdrawal of his accumulated contributions under former § 51-100 or under subsection A of § 51-155 or corresponding previous provisions of this chapter; provided such member pays, while in service or within ninety days after termination of service, an amount equal to the contributions that he would have made during the entire period to be credited on the assumption that the member contribution rate specified in § 51-147 as of the date of payment had been in effect during the entire such period and that his creditable compensation as of the date of payment (or as of the last date in service, if the member is not in service at date of payment), or his average annual creditable compensation during his thirty-six highest months of creditable service, whichever is greater, had been received during the entire such period. The amount of such contributions paid shall be credited to the account of the member in the member's contribution account. No payment shall be made for any period of service prior to June 30, 1942, or any period subsequent to that date during which the member was in the armed forces of the United States.

Such payment may be made in a lump sum or, at the option of the member, by an additional payroll deduction in an amount equal to the current contribution rate specified in § 51-147. Only one such additional deduction shall be permitted. In the event that such additional deduction is for any reason terminated prior to the completion of purchase of the entire period which might otherwise be credited, the member shall be credited with the number of additional months of service for which payments were made. In the event that such additional deduction is



for any reason continued beyond the point at which the entire period has been purchased, the member shall be credited with no more than the entire period which might otherwise have been credited and the excess amount deducted shall be refunded to the member.

D. In order for the additional service provided for in subsection C of this section to be considered in the computation of any retirement allowance payable in the event of a member's retirement under § 51-152, the member shall have submitted at the time payment or repayment is made, a medical report satisfactory to the Medical Board showing that the member was at such time of sound mind and body.

E. Any member who, after July 1, 1950, entered or enters the armed forces of the United States on leave of absence from service, and who does not withdraw his accumulated contributions, shall be entitled to have included as creditable service his period of service in such armed forces provided his discharge therefrom was not dishonorable and he reenters service within one year after discharge. No such period of service shall be included as creditable service if it was extended beyond cessation of hostilities through reenlistment. Any member who rejected membership in the Virginia Retirement System and subsequently, on leave of absence from service, entered the armed forces of the United States, shall be entitled to have included as creditable service his period of service in such armed forces provided his discharge therefrom was not dishonorable, and he reenters service within one year after discharge and said service has been continuous since becoming a member. No such period of service shall be included as creditable service if it was extended beyond cessation of hostilities through reenlistment.

F. If a member ceases to be employed as a state police officer, has not been paid the accumulated contributions credited to his account, and accepts employment in a position not covered by this chapter but covered under the Virginia Supplemental Retirement Act (§ 51-111.9 et seq.), he shall be entitled to credit for his previous creditable service under this chapter. His accumulated contributions shall be transferred to the Virginia Supplemental Retirement System and credited in accordance with the provisions of the Virginia Supplemental Retirement Act. In such cases, future retirement rights shall be as set forth in the Virginia Supplemental Retirement Act.

G. A. Service qualifying for credit under the provisions of the Virginia Supplemental Retirement Act System shall be included as creditable service for the purposes of this chapter, provided the requirements as set forth in the act Chapter 1 (§ 51.1-100 et seq.) of this title for crediting such service thereunder have been complied with by the member and any payment required thereunder is credited in the member's contribution account.

H. B. Service purchased in accordance with the provisions of § ~~51-111.41:4~~ 51.1-143 shall not be considered in .

1. In determining the actuarial equivalent in subdivision (a) (2) of § 51-151 or subsection B of § 51-156, nor shall such service for early retirement.

2. In determining the twenty years of service requirement of subsection B of § 51.1-206 , except for that which had been rendered in a hazardous position and had been credited in the retirement system of a political subdivision of this Commonwealth ; be considered in determining the twenty years of service requirement of subsection (b) of § 51-151 .

3. Twice in determining any disability allowance payable under this chapter.

C. If a member ceases to be employed as a state police officer, has not received a refund of the accumulated contributions credited to his member's contribution account, and accepts employment in a position covered by the Virginia Retirement System or the Judicial Retirement System, he shall be entitled to credit for his previous creditable service under this chapter. His accumulated contributions shall be transferred and credited to his member's contribution account in the appropriate retirement system. Future retirement rights shall be as set forth under the provisions of the appropriate retirement system.

DRAFTING NOTE: The first part of this section is deleted since much of the language duplicates that of proposed § 51.1-142. The provisions allowing credit for service prior to July 1, 1950, are no longer necessary since there are only two members of the system who were employed prior to July 1, 1950, and both have been granted credit for their respective periods of service prior to that date. Existing subsections F, G, and H are rewritten for clarity and a sentence from § 51-111.41:4 is added to proposed subsection B. Language clarifying which service can be used was also added to subsection B. A provision for the transfer of funds to the Judicial Retirement System is added in proposed subsection C since it is possible that a state police officer could be appointed as a judge.

~~§ 51-147. Contributions of members. (a) Each member shall contribute for each pay period for which he receives compensation prior to September 1, 1974, 5.5 percent of his creditable compensation minus \$1200 and thereafter five percent of his creditable compensation.~~

~~(b) The members' contributions provided for herein shall be deducted and paid as provided in subsections (b), (c), (d), (e) and (g) of § 51-111.46 or § 51-111.46:1, if applicable.~~

DRAFTING NOTE: This section is repealed because the Commonwealth began paying the members' contributions effective October 1, 1983.

~~§ 51-148 51.1-204 . Contributions by Commonwealth.—The Commonwealth shall contribute an amount equal to the sum of the “normal contribution,” the any “accrued liability contribution,” if any, and the any “supplementary contribution ;” if any, which . The amount shall be determined and paid as provided in §§ 51-111.47 and 51-111.47:01 and in such other provisions of the Virginia Supplemental Retirement Act (§ 51-111.0 et seq.) as may be applicable to employer contributions Chapter 1 (§ 51.1-100 et seq.) of this title .~~

DRAFTING NOTE: Language revisions only.

~~§ 51-149. Assets of system. (a) The provisions of §§ 51-111.48, 51-111.49, 51-111.50, 51-111.51 and 51-111.52 shall be applicable to the assets of the system.~~

~~(b) The Board of Trustees of the Virginia Supplemental Retirement System shall be the trustee of the funds of the system, and the appropriate provisions of §§ 51-111.22 and 51-111.24 shall apply. The Board may invest the assets of this system, the Virginia Supplemental Retirement System, and the Judicial Retirement System on a pooled or consolidated basis; however, it shall maintain a separate accounting for the funds of this system.~~

DRAFTING NOTE: Subsection (a) is repealed because § 51.1-200 provides that the provisions of the Virginia Retirement System apply to and govern the operation of the State Police Officers' Retirement System; therefore, it is not necessary to state that those specific sections of the Virginia Retirement System apply to the State Police Officers' Retirement System. Subsection (b) is repealed because proposed § 51.1-114 states that the Board is the trustee of the funds. The last sentence of subsection (b) has been made into a separate section, proposed § 51.1-115.

~~§ 51-150 51.1-205 . Service retirement generally.—A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire at any time then or thereafter upon written notification to the Board, setting forth at what time the date the retirement is to become effective. Such effective date shall be after his last day of service but shall not be more than ninety days prior to the filing of such notice. Any member, except one appointed by the Governor or elected by the people, who attains seventy years of age shall be retired forthwith ; however, any . Any employer, subsequent to the employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that the employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.~~

~~B. Early retirement. - Any member in service on or after who has attained his fiftieth birthday with five or more years of creditable service may retire upon written notification to the Board setting forth at what time the date the retirement is to become effective. Such effective date shall be after his last day of service but shall not be more than ninety days prior to the filing of such notice.~~

~~C. Deferred retirement for members terminating service. - Any member having terminated who terminates service (i) prior to July 1, 1966, after fifteen or more years of creditable service, or (ii) subsequent to June 30, 1966, and prior to July 1, 1970, after ten or more years of creditable service or (iii) subsequent to June 30, 1970, after five or more years of creditable service, may retire under the provisions of subsection A or B of this section ; provided that the member if he has not withdrawn his accumulated contributions prior to the effective date of his retirement ; and except that . For the purposes of this subsection, any requirements as to the member being in service shall not apply. However, any member shall be entitled to the benefits of this subsection if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance , or misfeasance in office. Such The certification may be appealed to the Board ; and its decision shall be final .~~

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

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

DRAFTING NOTE: Language regarding the effective date of retirement is stricken in subsections A and B and made into a separate subsection. Language is stricken at the beginning of subsection C because it is obsolete. If there are any beneficiaries, they will not be affected because of § 51.1-402. The sentence in subsection C allowing a member to receive a deferred benefit if he has five or more years of employer-paid service for which contributions cannot be withdrawn is deleted since all employer-paid contributions are credited in the member accounts and can be withdrawn upon termination of employment. In subsection C, the provision that the Board's decision is final was deleted because it is probable that the Board's decision could be appealed. Other changes are language revisions only.

~~§ 51-151~~ 51.1-206 . Service retirement allowance.—A. Upon retirement as provided in ~~§ 51-150~~, on or after July 1, 1990, a A member shall receive an annual retirement allowance, payable monthly to him for life, subject to the provisions of subsections E and G of this section, determined in accordance with subdivision (1) or (2), whichever is applicable as follows .

(1) 1. Normal retirement under ~~§ 51-150 A~~ - An The allowance shall equal to (i) 1.5 percent of his average final compensation multiplied by his number of years of creditable service, or (ii) 1.65 percent of his average final compensation minus \$1,200 1.50 percent of the first \$13,200 of average final compensation plus 1.65 percent of average final compensation in excess of \$13,200 multiplied by his number of years the amount of creditable service ; whichever is larger, subject, however, to the provisions of subsections B and C of this section. A member who terminated employment prior to July 1, 1974, shall receive an allowance equal to 1.65 percent of average final compensation as defined in ~~§ 51-144 (12)~~ minus \$1,200 multiplied by his number of years of credited service . If the member is credited with thirty-five or more years of service, he shall receive 1.65 percent of his average final compensation multiplied by the amount of creditable service.

(2) 2. Early retirement under ~~§ 51-150 B~~ . - An The allowance which shall be determined in the same manner as for retirement at his normal retirement date with years of creditable service and average final compensation being determined as of the date of his actual retirement. If the member has less than twenty-five years of service at the date of retirement, the amount of the retirement allowance so determined shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his fiftieth birthday on which he would have completed a total of twenty-five years of creditable service had he been continuously in service from his date of retirement until such first date .

B. In addition to the allowance payable under subsection A of this section, a member who retires on, prior to or after July 1, 1986, shall receive an additional annual allowance ; payable monthly, equal to ~~\$2,000~~ \$3,240 annually from date of retirement until his fifty-eighth birthday and ~~\$6,000~~ \$6,480 annually from his fifty-eighth birthday and prior to his sixty-fifth birthday. Such allowance shall be reviewed and may be adjusted by the Board biennially to an amount recommended by the actuary of the Virginia Supplemental Retirement System based upon increases in social security benefits in the interim. This subsection shall not apply to the following: (i) any member who qualifies for retirement under subsection C of ~~§ 51-150~~ 51.1-205 and is credited with less than twenty years' service rendered in a hazardous position ; or (ii) any member employed initially on or after July 1, 1974, who is credited with less than twenty years' service rendered in a hazardous position ; or (iii) any member covered under the provisions of ~~§ 51-111.27~~ who has not rendered twenty years of service in a hazardous position .

C. Subject to the provisions of subsection D of this section, the retirement allowance payable under this section to any member who was in service, on June 30, 1966, shall prior to his sixty-fifth birthday, be not less, in the case of a member who retires on or after his normal retirement date, than an amount equal to two percent of the member's average final compensation multiplied by his years of creditable service not in excess of twenty-five years or, in the case of a member who retires prior to his normal retirement date, than an amount similarly determined but reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the normal retirement date, nor after his sixty-fifth birthday shall it be less than the excess, if any, of such amount over one-half of the annual primary social security benefits under the federal Social Security Act to which he became entitled at his sixty-fifth birthday, or to which he would have become entitled at such birthday except for having elected to have his social security benefits commence at an earlier date.

D. For the purposes of subsections C and G of this section, the retirement allowance shall be determined on the assumption that it is payable to the member alone and that no optional form

of retirement allowance as provided in § 51-111.60 is elected.

E. ~~Should C. If a beneficiary of a service retirement allowance under this chapter be~~ ~~is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 2-1 (§ 51-111.1 et seq.) 7 (§ 51.1-700) of this title, his retirement allowance shall cease while so employed.~~

F. ~~In the case of any member retired prior to July 1, 1970, for service, the retirement allowance payable on or after July 1, 1970, shall be equal to the larger of an amount or amounts computed in accordance with the preceding subsections of this section as adopted and amended prior to July 1, 1974, and the amount or amounts of the allowance that would have been payable except for the provisions of this subsection.~~

G. ~~Maximum retirement allowance. - On and after July 1, 1974, no member shall receive a retirement allowance payable hereunder which, when added to one-half of the primary social security benefit to which he is or would be entitled at his sixty-fifth birthday under federal law, will be in excess of his average final compensation. In no event shall benefits payable for service credited prior to July 1, 1974, be less than the benefits that would have been payable had they been calculated under the benefit formula in effect immediately prior to July 1, 1974.~~

~~DRAFTING NOTE: Obsolete language is deleted in subsection A, as well as references to subsections E and G. Reference to the determination of retirement benefits in subdivision 1 of subsection A of the higher of 1.5 percent of average final compensation or 1.65 percent of average final compensation minus \$1,200 is rewritten to provide 1.50 percent of the first \$13,200 of average final compensation plus 1.65 percent of average final compensation in excess of \$13,200. This change in the formula does not change the amount of benefits payable. However, the last sentence which is being inserted would provide increased benefits for those members with 35 or more years of service. The amounts of the supplements in subsection B are changed to reflect the increase approved by the Board effective July 1, 1989. The language of (iii) in subsection B was inserted in 1984 in error and is now being stricken. Existing subsections C and D are of limited application and have been moved to proposed § 51.1-405. Subsection F is being repealed because of its limited application but any beneficiaries will not be affected because of proposed § 51.1-402. Subsection G is repealed since the Tax Reform Act of 1986 does not permit the integration of social security and retirement benefits. Other changes are language revisions only.~~

~~§ 51-152. Disability retirement generally.—(a) Any member in service or within ninety days after termination of service, except as provided in subsection (e) may, at any time before his normal retirement date, retire on account of disability not compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.) upon written notification to the Board, setting forth at what date the retirement is to become effective. Such effective date shall be after his last day of service but shall not be more than ninety days prior to filing of such notification. In addition, the Medical Board, after a medical examination of the member or after reviewing pertinent medical records, shall certify that (i) such member is, and has been continuously since such effective date if prior to the filing of such notification, mentally or physically incapacitated for the further performance of duty, (ii) such incapacity is likely to be permanent and (iii) such member should be retired.~~

~~(b) Any member in service or within ninety days after termination of service, except as provided in subsection (e), may retire on account of disability from a cause compensable under the Virginia Workers' Compensation Act, upon written notification to the Board, setting forth at what date the retirement is to become effective. Such effective date shall be after his last day of service, but shall not be more than ninety days prior to the filing of such notification. In addition, the Medical Board, after a medical examination of the member or after reviewing pertinent medical records shall certify that (i) such member is, and has been continuously since such effective date if prior to the filing of such notification, mentally or physically incapacitated for the further performance of duty, (ii) such incapacity is likely to be permanent and (iii) such member should be retired.~~

~~(c) In the event no compensation is finally awarded under the Virginia Workers' Compensation Act with respect to the disability of a member, due to legal proceedings or otherwise resulting in settlement from the person, or persons causing such disability, the Virginia Industrial Commission, upon request of the Board, shall for the purpose of this section determine whether such member's disability was from a cause compensable under the Virginia Workers' Compensation Act.~~

~~(d) Any member in service who is totally and permanently disabled while on active duty as a result of the felonious misconduct of another, and who is not less than thirty years of age and has been in service not less than seven years, and whose disability has occurred since January~~

1, 1960, may retire as provided in (b) above and the said member shall be entitled to maintenance and services at the Woodrow Wilson Rehabilitation Center without being liable to pay for the same.

(e) The Board, in its sole discretion, may waive in accordance with rules, regulations and standards prescribed by the Board, the ninety day period of limitation on notification of termination because of disability as set forth in subsections (a) and (b) upon a showing of good cause. Any decision of the Board on waiving such requirement shall be final and not subject to judicial review. The provisions of this section shall apply to any member in service on or after August 15, 1977.

(f) A member shall not be retired for disability for any condition which existed at the time of becoming a member unless medical evidence, convincing to the Board, supports the fact that such pre existing condition has worsened substantially.

(g) In the event the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit such notification on his behalf.

(h) Any member who has been on leave of absence without pay for a period exceeding twenty-four months shall not be entitled to retire under the provisions of this section.

DRAFTING NOTE: This section is repealed since the provisions of all subsections except (d) duplicate proposed § 51.1-156. Subsection (d) has been taken out of the Code and put in the Acts of Assembly because it is of limited application.

§ 51-153. Disability retirement allowance.—(a) Upon retirement as provided in § 51-152 on or after July 1, 1974, a member who has five or more years of creditable service shall receive an annual retirement allowance payable monthly during his lifetime and continued disability equal to (A) 1.5 percent of his average final compensation or (B) 1.65 percent of his average final compensation minus \$1,200, whichever is larger, when multiplied by the smaller of:

(i) Twice the number of his years of creditable service; or

(ii) The number of years of creditable service he would have completed at age sixty if he had remained in service to that age, or in the case of a member who has already attained age sixty, the number of his years of creditable service at his date of retirement; subject, however, to the provisions of subsections (b) and (c) of this section.

In the case of any beneficiary retired for disability prior to July 1, 1966, who has not attained his sixtieth birthday prior to July 1, 1970, the allowance payable on and after July 1, 1970, shall be equal to the allowance theretofore paid, subject to the provisions of subsection (b) of this section, until his sixtieth birthday. On and after the sixtieth birthday of such a beneficiary, the allowance payable shall be equal to the service retirement allowance for normal retirement determined in accordance with subdivision (1) of subsection (a) of § 51-151, subject to the provisions of subsections (b) and (c) of § 51-151, on the assumption that creditable compensation on the date of disability retirement continued in the same amount up to his sixtieth birthday and on the assumption that years of creditable service at normal retirement included both the creditable service prior to disability retirement and the period of disability retirement.

(b) Notwithstanding the provisions of subsection (a) of this section, the amount of annual retirement allowance as determined under this section shall, effective five months after retirement date and subject to the provisions of subsection (d) of this section, be at least an amount which when added to one-half of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date would equal \$1,000 or twenty-five percent of average final compensation, whichever is larger, provided further the annual amount of the combined retirement system allowance and one-half of primary social security benefit for any member retired or retiring and credited with twenty or more years of service at the time of retirement shall, effective five months after retirement date, and subject to the provisions of subsection (d) of this section, not be less than the retirement allowance payable excluding post-retirement supplements of the type provided for in § 51-157.1, but including increases provided by law, to former members retired for disability under the provisions of the retirement acts in effect prior to March 1, 1952.

(c) Notwithstanding the provisions of subsection (a) of this section, if a member retires for disability under the provisions of subsection (b) of § 51-152, the amount of annual retirement allowance as determined under this section shall, subject to the provisions of subsections (d) and (e) of this section, be at least an amount which when added to one-half of the primary social

security benefits to which the member may become entitled under the federal Social Security Act, in effect at his retirement date would equal two thirds of the member's average final compensation.

A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection (a) of this section or under the provisions of this subsection.

(d) For the purposes of this section the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

(e) Any allowance payable to a member who is disabled from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.) shall be reduced by the amount of any payments under the Virginia Workers' Compensation Act and the excess of the allowance, if any, shall be paid to such member. When the time for payments of the compensation under such act has elapsed, the member shall thereafter receive the full amount of such allowance payable monthly during his lifetime and continued disability. If such member's payments under the Virginia Workers' Compensation Act are reduced or stopped for refusal to work or to comply with the requirements of § 65.1-88, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

(f) The payment of any disability allowance hereunder shall be subject to the provisions of §§ 51-111.61 and 51-111.63 to the extent applicable.

(g) Maximum retirement allowance. - On and after July 1, 1974, no member shall receive a retirement allowance payable hereunder which, when added to one half of the primary social security benefit to which he is entitled under federal law, will be in excess of his average final compensation. In no event shall benefits payable for service credited prior to July 1, 1974, be less than the benefits that would have been payable had they been calculated under the benefit formula in effect immediately prior to July 1, 1974.

(h) Any member retired under the provisions of subsection (a) of § 51-152 shall be guaranteed an annual retirement allowance payable monthly during his lifetime and continued disability which when added to sixty four percent of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date, would equal fifty percent of the average final compensation of such member.

DRAFTING NOTE: Language in this section is deleted since the provisions of all subsections are included in the Virginia Retirement System with the exception of the last paragraph in subsection (a) and subsection (f). The last paragraph in subsection (a) is repealed because of its limited application, but any beneficiaries will not be affected because of proposed § 51.1-402. Subsection (f) is repealed since § 51.1-200 provides that the provisions of the Virginia Retirement System apply to and govern the operation of the State Police Officers' Retirement System.

§ 51-154. Optional benefits.—Each member shall have the right to elect to have his retirement allowance payable under an actuarially equivalent option as provided in § 51-111.60.

DRAFTING NOTE: This section is repealed since § 51.1-200 provides that the provisions of the Virginia Retirement System apply to and govern the operation of the State Police Officers' Retirement System.

§ 51-155. Withdrawal before retirement.—A. If a member has ceased to be an employee; otherwise than by death or by retirement under the provisions of this chapter; he shall be paid, on demand or as soon thereafter as practicable, the amount of his accumulated contributions reduced by the amount of any retirement allowances previously received by him under any of the provisions of this chapter.

B. Notwithstanding any provision in subsection A of this section to the contrary; a member who retires under the provisions of subsection (b) of § 51-152 shall be refunded the amount of his accumulated contributions.

DRAFTING NOTE: This section is repealed since § 51.1-200 provides that the provisions of the Virginia Retirement System apply to and govern the operation of the State Police Officers' Retirement System.

§ 51-156 51.1-207 Death before retirement.—A. Should a member die at any time before retirement, and if no benefits are payable under subsection B of this section, the amount of the member's accumulated contributions, reduced by the amount of any retirement allowance previously received by the member under this chapter, shall be paid to such person, if any, as the member has nominated by written designation made on a form prepared by the Board signed and acknowledged by such member before some person authorized to take



acknowledgments and filed with the Board, otherwise to his executors or administrators. Any such designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed as aforesaid. Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed and acknowledged by the member before a person authorized to take acknowledgments, and filed with the Board. The designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed with the Board. If the death of the designated person occurs prior to the death of the member and another designation has not been made, payment shall be made to the executors or administrators of the estate of the member.

In the event If no designation has been made, then such the proceeds shall be paid to the person or persons surviving at the death of the member in the following order of precedence:

First, to the widow or widower spouse of such the member;

Second, if none of the above no surviving spouse , to the child or children of such the member and descendants of deceased children, per stirpes;

Third, if none of the above, to the parents of such the member or the survivor of them ,

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

Fifth, if none of the above, to other next of kin of such the member entitled under the laws of the domicile of such the member at the time of his death.

If a member dies at any time before retirement and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to the persons qualifying in the order of precedence. This amount shall be reduced by the amount of any retirement allowance previously received by the member.

B. Should If a member die dies in service at any time before retirement and if no benefits are payable under subsection C of this section , there shall be paid a retirement allowance shall be paid to the person nominated designated as provided in subsection A of this section ; if such the person is the (i) wife, (ii) husband, (iii) surviving spouse, (ii) minor child, (iv) (iii) mother , or (v) (iv) father of the member. Such The retirement allowance shall be paid to the first person qualifying in the preceding order of precedence ; however, if set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in such a manner as determined by the Board may determine Such The retirement allowance shall be continued during the lifetime of such the person or in the case of a minor child until such time as the child dies or attains the age of majority, whichever shall occurs first occur, and shall be an . The allowance shall equal to one-half of the retirement allowance that would have been payable to the member had the member retired under the provisions of § 51-150 for early service retirement on the date of his death after having and elected to have his allowance payable under the joint and last-survivor option described in subdivision (a) (2) of § 51-111.60 so that one-half thereof would be continued after his death to such person after the member's death . In the case of a member who had not attained his fiftieth birthday at his date of death, it shall be assumed that the member's age at his date of death is fifty for the purpose of reducing the benefit on an actuarial equivalent basis. In the case of If a member who dies after attaining his sixtieth birthday, the allowance shall be equal to the decreased retirement allowance that would have been payable to the member had the member retired under the provisions of subsection A of § 51-150 at his normal retirement age on the date of his death after having and elected to have his allowance payable under the joint and last-survivor option described in subdivision (a) (2) of § 51-111.60 so that the same amount would be continued after his death to such person after the member's death . In the determination of When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subsections subsection B and C of § 51-151 51.1-206 shall not apply If such the person so elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions ; reduced by the amount of any retirement allowance previously received by him under this chapter, shall be paid to such the person exclusively, in lieu of any other benefits under this section.

Should a member die subsequent to meeting the service, age or both service and age requirements, as appropriate, of this subsection B, having nominated and designated a trust as the recipient of his benefits, the trust nominated shall be entitled to disclaim its rights to payment under subsection A of this section by written notification to the Board within ninety



days after the death of such member. In the event of such a disclaimer, the monthly retirement allowance shall be paid to the beneficiary of the nominated trust just as if such beneficiary had been nominated by written designation by the member as required in subsection A of this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member.

C. Should If a member die dies in service at any time before retirement from a cause compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.), an annual a retirement allowance shall be paid to the widow or widower, if any, of such member. In the event member's surviving spouse. If no compensation is finally awarded under the Virginia Workers' Compensation Act with respect to the death of a member, due to legal proceedings or otherwise resulting in settlement from the person or persons causing such death, the Virginia Industrial Commission ; upon request of the Board, shall for the purpose of this section determine whether such the member's death was from a cause compensable under the Virginia Workers' Compensation Act. If such the member leaves no widow or widower surviving spouse , or the widow or widower surviving spouse dies or remarries, then the any minor child or children ; if any, of the deceased member ; shall be paid an allowance until such child or the children die or attain the age of majority, whichever shall occurs first occur . If more than one minor child survives the deceased member, the allowance shall be divided among them in such a manner as determined by the Board may determine . If the deceased member leaves neither widow, widower surviving spouse nor minor child, then such the allowance shall be paid to the member's parent or parents wholly dependent upon him for support, divided in such a manner as determined by the Board may determine , during the life or lives of such parent or the parents.

The retirement allowance, payable hereunder to a qualifying survivor or survivors , shall be the annual amount ; payable monthly, which when added to one half of the social security benefit payable to such qualifying survivor or survivors as result of coverage of the member under the federal Social Security Act and the compensation payable under the Virginia Workers' Compensation Act for the death of the member, shall be equal to one half fifty percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the retirement system when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation

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

DRAFTING NOTE: Subsection A is rewritten for clarity. The last paragraph in subsection B is deleted because of limited application. Language in the second paragraph of subsection C offsetting the payment by one-half of the Social Security benefit is deleted since the Tax Reform Act of 1986 no longer permits such an offset. However, wording is inserted to provide a lower benefit if the survivor is receiving social security Other changes are language revisions only.

§ 51-156.1. Disbursement by affidavit. If it is determined that payment under § 51-156 or § 51-167 is to be made to the estate of a member or former member and there has been no appointment of a representative of the estate within the sixty days following the death of the member or former member, payment may be made to a person claiming to be the successor of the decedent upon presentation of an affidavit as set forth in § 51-111.58:2.

Upon receipt of a properly executed affidavit, the retirement system is discharged and released to the same extent as if dealing with an appointed representative of the estate of the decedent. The retirement system shall not be required to see to the application of benefits or evidence thereof or to inquire into the truth of any statement in the affidavit. Any person to whom payment is made is answerable and accountable therefor to any appointed representative of the estate or to any other person having a superior right.

DRAFTING NOTE: This section is repealed since § 51.1-200 provides that the provisions of the Virginia Retirement System apply to and govern the operation of the State Police Officers' Retirement System.

§ 51-157. Death after retirement. If a member dies after the effective date of his retirement under this chapter, the excess, if any, of his accumulated contributions as of the effective date of his retirement, over the total retirement allowances received by him shall be paid in the same manner as provided in subsection A of § 51-156 in the case of death before retirement

unless the retirement allowance is then being paid in accordance with any of the options of § 51-111.60.

DRAFTING NOTE: This section is repealed since § 51.1-200 provides that the provisions of the Virginia Retirement System apply to and govern the operation of the State Police Officers' Retirement System.

~~§ 51-157.1 51.1-208 . Post-retirement supplements.— In addition to the allowances payable under §§ 51-111.37 C, 51-151, 51-152, 51-154 and 51-156 of this chapter, post-retirement supplements shall be payable in accordance with the provisions of § 51-111.60:1; however, in computing the amount of any such supplements post-retirement supplements , any additional allowances being paid under the provisions of subsection B of § 51-151 51.1-206 shall be disregarded. Notwithstanding the provisions of § 51-111.60:1 to the contrary, the The first post-retirement supplement for a recipient of an allowance under subsection B of § 51-150 51.1-205 who has twenty-five or more years of creditable service and who has not attained his fifty-third birthday at his retirement date shall not be payable until the calendar year in which the recipient attains his fifty-fifth birthday ; and the . The calendar year in which the member attains his fifty-third birthday shall be considered to be the calendar year in which the allowance initially commenced.~~

DRAFTING NOTE: Unnecessary references were deleted.

~~§ 51-158. Group insurance benefits.—The members of the system, through coverage under the group insurance contract or contracts provided for in § 51-111.67:1 are eligible for the insurance benefits described in § 51-111.67:4, subject to the employee contributions provided for in §§ 51-111.67:5 and 51-111.67:6 and the other applicable provisions of Article 9 (§ 51-111.67:1 et seq.) of Chapter 3.2.~~

DRAFTING NOTE: This section is being repealed because proposed § 51.1-502 provides that members of the State Police Officers' Retirement System are eligible to participate in the group life insurance program administered by the Virginia Retirement System.

~~§ 51-150. Ten percent increase in retirement allowances.—On and after July 1, 1973, the retirement allowance payable to each beneficiary prior to that date under this chapter or under the repealed State Police Officers' Retirement Act shall be increased by ten per centum; from July 1, 1973, to July 1, 1974, any retirement allowance which becomes payable under this chapter shall be increased by ten per centum; provided, however, that any allowance payable under subsection (b) of § 51-151 shall not be included in the computation of such increases.~~

DRAFTING NOTE: This section is being repealed because it is of limited application but any beneficiaries will not be affected because of § 51.1-402.

### CHAPTER 3.

#### JUDICIAL RETIREMENT SYSTEM.

CHAPTER DRAFTING NOTE: Both the current and the revised chapter on the Judicial Retirement System contain a statement that the provisions of the Virginia Supplemental Retirement System apply to and govern the operation of the Judicial Retirement System. Some of the provisions of the Virginia Supplemental Retirement System that apply to the Judicial Retirement System are repeated in the current chapter on the Judicial Retirement System and some are not. The recodification removed all language that is repetitive of provisions in the Virginia Retirement System. This allowed a number of sections to be repealed. There were several sections that were of limited application and either repealed if obsolete or moved to Chapter 4 entitled "Provisions Coordinating Past and Present Retirement Plans." Because of changes imposed by the Tax Reform Act of 1986, the benefit formula was changed from the greater of 1.50% of all average final compensation or 1.65% of average final compensation in excess of \$1,200 multiplied by the amount of creditable service to 1.65% of average final compensation multiplied by the amount of creditable service. According to the the actuary employed by the Virginia Supplemental Retirement System, this will provide a slight increase in benefits. The formula for determining disability retirement allowance has been changed from the greater of 1.50% of all average final compensation or 1.65% of average final compensation in excess of \$1,200 multiplied by the smaller of twice the amount of creditable service or the amount of creditable service the member would have completed at age sixty if he had remained in service to that age by substituting 1.65% of all average final compensation as the multiplier. Other death and disability benefits have been changed as explained in the Chapter 1 drafting note. A section on temporary recall of retired justices, judges, and members of the State Corporation Commission and Industrial Commission has been divided and moved to other titles of the Code.

~~§ 51-160 51.1-300 . Judicial Retirement System created continued ; administration; application of provisions of Virginia Supplemental Retirement Act System .— (a) This chapter creates a retirement system (hereinafter referred to as "system") for the judiciary of the Commonwealth.~~

(b) The provisions of this chapter *The Judicial Retirement System is continued and shall be administered by the Board of Trustees of the Virginia Supplemental Retirement System. Except as otherwise provided in this chapter, the provisions of the Virginia Supplemental Retirement Act (§ 51-111.0 et seq.) are applicable and Chapter 1 (§ 51.1-100 et seq.) of this title shall apply to and govern the administration of the system established hereby Judicial Retirement System*

DRAFTING NOTE: The word "Act" is changed to "System" in the catchline since § 51-111.9 designating the short title as the "Virginia Supplemental Retirement Act" is being repealed.

~~§ 51-161~~ 51.1-301. Definitions.—As used in this chapter, unless a ~~different meaning is plainly required by the context requires a different meaning~~ :

(1) "Board" means the board of trustees as provided by § 51-111.17;

(2) "Medical Board" means the board of physicians as provided by § 51-111.26;

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

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

(3) "Judge" means any justice or judge of a court of record of the Commonwealth, any member of the State Corporation Commission or Industrial Commission, any judge of a district court of the Commonwealth other than a substitute judge of such district court, and any executive secretary of the Supreme Court assuming such position between December 1, 1975, and January 31, 1976 ; .

(4) "Member" means any person included in the membership of the system as provided in § ~~51-162~~ or elsewhere in this chapter;

(5) "Service" means service as a judge;

(6) "Prior service" means service rendered prior to July 1, 1970, for which credit is available under § 51-163; and service rendered prior to July 1, 1972, for which credit is available under § 51-176.1;

(7) "Membership service" means service rendered while a contributing member of the system;

(8) "Creditable service" means prior service plus membership service, as further defined in and modified by § 51-163, for which credit is allowable under this chapter;

(9) "Beneficiary" means any person entitled to receive benefits under this chapter;

(10) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts as provided in § 51-111.40;

(11) "Creditable compensation" means the full compensation payable annually by the Commonwealth to a judge for his covered position;

(12) "Average final compensation" means the average annual creditable compensation of a member during his ~~thirty-six~~ highest consecutive months of actual service which may be considered under subsections (a), (b) or (c) of § 51-163 for purposes of determining creditable service or during the entire period of such actual service if less than ~~thirty-six~~ months. In the event a member ceased employment prior to July 1, 1974, average final compensation shall mean the average annual creditable compensation during the five highest consecutive years of creditable service;

(13) "Retirement allowance" means the retirement payments to which a member is entitled as provided in this chapter;

(14) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board;

(15) "Normal retirement date" means a member's ~~sixty-fifth~~ birthday;

(16) "Previous systems" means the systems established under the provisions of Chapters 2 (§ 51-3 et seq.) and 2.2 (§ 51-29.8 et seq.) of Title 51, and, in the case of judges of regional

juvenile and domestic relations courts, the Virginia Supplemental Retirement System ; .

(17) "Appointing authority" means the General Assembly and/or the Governor; and

(18) "Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided; however, in any case in which the amount of a member's primary old age social security benefit at a date subsequent to such member's date of retirement is pertinent to the computation of benefits under this chapter other than under § 51-111.60:4, the amount of such social security benefit shall be computed as of the date of retirement of the member under the assumption that thereafter the member would have no earnings that would be considered as "wages" for the purposes of the federal Social Security Act.

"Retirement system" means the Judicial Retirement System.

"Service" means service as a judge.

DRAFTING NOTE: Definitions that have the same meaning as definitions in Chapter 1 were not retained. These include definitions of "accumulated contributions," "actuarial equivalent," "average final compensation," "beneficiary," "board," "creditable compensation," "medical board," "membership service," "normal retirement date," "prior service," and "retirement allowance." Some of the definitions are revised for the reasons explained in the drafting note for proposed § 51.1-101. Obsolete dates are deleted in the definition of "prior service." The definition of "primary social security benefit" is deleted since the Tax Reform Act of 1986 does not permit the integration of social security and retirement benefits. A definition of "retirement system" was added for clarification.

§ 51-162 51.1-302 . Membership in retirement system.— (a) Membership in the retirement system shall consist of (i) all persons who become judges or reenter service as judges on or after July 1, 1970, (ii) all judges who, immediately prior to July 1, 1970, are in service and members of the previous systems, (iii) all judges who, immediately prior to July 1, 1970, are in service but not members of the previous systems and who elect to become members by filing written notice of such election with the board prior to October 1, 1970, and (iv) all assistant attorneys general retired under the provisions of repealed § 51-21.1 .

(b) The membership of any person in the system shall cease (i) upon the withdrawal of his accumulated contributions or (ii) upon retirement, or (iii) upon death.

DRAFTING NOTE: Obsolete dates are deleted in existing subsection (a). Items (ii) and (iii) in subsection (a) are obsolete and are being repealed since these people have become members and the time for making the election to participate in the system has expired. Item (iv) is repealed due to its limited application and the provisions of § 51.1-402. Subsection (b) is stricken because its provisions are included in proposed § 51.1-128 (existing § 51-111.29) and § 51.1-300 provides that the provisions of the Virginia Retirement System apply to and govern the operation of the Judicial Retirement System. Section 51-111.29 is revised to add a provision for dormant accounts.

§ 51-163 51.1-303 . Creditable service.— (a) Prior service for judges who were previous system members. - Any member in the service prior to July 1, 1970, shall be credited with all prior service rendered as a judge or trial justice, if he was a member of any one of the previous systems immediately prior to July 1, 1970.

(a1) Any judge may be credited with prior service for years during which he was a judge as defined in this chapter, county judge, judge of a city court not of record, trial justice or judge of a juvenile and domestic relations district court, but was not a member of the Judicial Retirement System or any one of the previous systems, by paying, while in service or within ninety days after termination of service, an amount equal to the contributions that he would have made during the period to be credited, calculated as provided in subsection A of § 51-111.41:1, but assuming that the contribution rate provided in subsection (a) of § 51-164 had been in effect during the entire period to be credited. In order for such prior service to be considered in the computation of any allowance payable in the event of a member's retirement under § 51-160, the member shall have submitted at the time payment is made a medical report satisfactory to the Medical Board showing that the member is of sound mind and body.

(b) Membership service. - Membership service shall be creditable service.

(c) Weighted years of service. - The service defined in subsections (a), (a1) and (b) of this section A. Service as a judge shall be multiplied by a factor of three and one-half, the weighted

years of service factor, to calculate years of creditable service. The service defined in subsections (d) and (e) of this section shall not be multiplied by the weighted years of service factor, unless credited pursuant to subdivision (a) (2) of § 51-176.1.

(d) Service of members of armed forces. - Any member who, after July 1, 1970, enters the armed forces of the United States on leave of absence from service, and who does not withdraw his accumulated contributions, shall be entitled to have included as creditable service his period of service in such armed forces provided his discharge therefrom is not dishonorable and he reenters service within one year after discharge. Any member of one of the previous systems immediately prior to July 1, 1970, who on leave of absence from service, entered the armed forces of the United States, shall be entitled to have included as creditable service his period of service in such armed forces provided his discharge therefrom was not dishonorable and he reentered service within one year after discharge.

(e) Transfer from Virginia Supplemental Retirement System. - B. Service qualifying for credit under the provisions of the Virginia Supplemental Retirement Act (§ 51-111.9 et seq.) System and the State Police Officers' Retirement System shall be included as creditable service for the purposes of this chapter, provided the requirements as set forth in that act of those systems for crediting such service thereunder have been complied with by the member. In addition, any member may purchase creditable service as set out in § 51-111.41:1 but assuming that the contribution rate provided in subsection (a) of § 51-164 had been in effect during the entire period to be credited, or the amount as set out in § 51-111.41:4, as the case may be. Service purchased in accordance with the provisions of § 51-111.41:4 51.1-143 shall not be considered in determining the actuarial equivalent in subdivision (a) (ii) of § 51-168 or subsection B of § 51-173 for early retirement nor shall it be considered twice in determining any disability allowance payable under this chapter.

(f) Transfer to Virginia Supplemental Retirement System. - C. If after ceasing a member ceases to be employed as a judge, provided he has not been paid his received a refund of the accumulated contributions; the member credited to his member's contribution account, and accepts employment in a position not covered by this chapter but covered under by the Virginia Supplemental Retirement Act (§ 51-111.9 et seq.) System, he shall be entitled to credit for his previous creditable service under this chapter; but not to. The amount of service transferred to the credit of the member in the Virginia Retirement System shall not exceed the amount of credit which would provide a benefit of seventy-five percent of average final compensation determined on the assumption that the member was eligible for normal retirement as of the date of transfer and that he had elected no optional allowance as provided in § 51-111.60. Otherwise, in such cases, future. Future retirement rights shall be as set forth provided in the Virginia Supplemental Retirement Act System.

DRAFTING NOTE: Subsection (a) is repealed since service rendered prior to July 1, 1970, has been credited and the subsection is obsolete. Reference to § 51-164 in subsection (a1) is deleted since that section is being repealed. Subsection (a1) is repealed due to its limited application. However, any beneficiaries will not be affected because of § 51.1-402. Subsection (b) is deleted since membership service is defined in the definitional section. The reference to § 51-176.1 in existing subsection (c) is deleted since that section is being repealed. Subsection (d) is repealed since the provisions for the crediting of military service are found in Chapter 1. Provisions for the transfer of service from the State Police Officers' Retirement System are inserted in subsection C since a member of that system could become a judge. A provision allowing for the transfer of service to the Virginia Retirement System provided the member does not withdraw accumulated contributions is inserted in proposed subsection C for clarification. Other changes are language revisions only.

§ 51-163.1. Prior service credit in certain cases.—Between July 1, 1973, and January 1, 1974, any member may be credited for service as a member of the General Assembly not otherwise credited under this chapter provided that he purchases credit for such service on the basis set forth in subsections A and B of § 51-111.41:1. In calculating the payment to be made thereunder payment shall be made on the assumption that an annual salary of \$5,475 and the contribution rate provided in subsection (a) of § 51-164 had been in effect during the entire period to be credited. Service creditable pursuant to this section shall not be weighted as provided in subsections (a) and (b) of § 51-163.

DRAFTING NOTE: This section is repealed since the time limit has expired and the section is obsolete.

§ 51-164. Contributions of members.—(a) Each member shall contribute for each pay period for which he receives compensation prior to September 1, 1974, 5.5 percent of his creditable compensation minus \$1200 and thereafter 5 percent of his creditable compensation, except as provided in subsection (b) of this section.

(b) Each member who immediately prior to July 1, 1970, was a member of any of the previous systems shall contribute for each pay period for which he receives compensation an amount equal to the percentage rate at which he was contributing under the previous system times his creditable compensation, if such amount is less than that required under subsection (a) of this section.

(c) The members' contributions provided for herein shall be deducted and paid as provided in subsections (b), (c), (d), (e) and (g) of § 51-111.46 or § 51-111.46:1, if applicable.

DRAFTING NOTE: This section is repealed because the Commonwealth began paying the members' contributions effective October 1, 1983.

~~§ 51-165.1 51.1-304 . Contributions by Commonwealth.—The Commonwealth shall contribute an amount equal to the sum of the “normal contribution,” the any “accrued liability contribution,” if any, and the any “supplementary contribution ;”if any, which . The amount shall be determined and paid as provided in §§ 51-111.47 and 51-111.47:01 and in any such other provisions of the Virginia Supplemental Retirement Act (§ 51-111.0 et seq.) as may be applicable to employer contributions Chapter 1 (§ 51.1-100 et seq.) of this title .~~

DRAFTING NOTE: Language revisions only.

~~§ 51-166. Assets of system.—(a) The provisions of §§ 51-111.48, 51-111.49, 51-111.50, 51-111.51 and 51-111.52 shall be applicable to the assets of the system.~~

~~(b) The Board shall be the trustee of the funds of the system, and the appropriate provisions of §§ 51-111.22 and 51-111.24 shall apply. The Board may invest the assets of this system, the Virginia Supplemental Retirement System and the State Police Officers' Retirement System on a pooled or consolidated basis; however, it shall maintain a separate accounting for the funds of this system.~~

DRAFTING NOTE: Subsection (a) is repealed because § 51.1-300 provides that the provisions of the Virginia Retirement System apply to and govern the operation of the Judicial Retirement System; therefore, it is not necessary to state that those specific sections of the Virginia Retirement System apply to the Judicial Retirement System. Subsection (b) is repealed because proposed § 51.1-114 states that the Board is the trustee of the funds. The last sentence of subsection (b) has been made into a separate section, proposed § 51.1-115.

~~§ 51-167 51.1-305 . Service retirement generally .—A. Mandatory retirement. - Any member who attains seventy years of age shall be retired twenty days after the convening of the next regular session of the General Assembly. Any member who was a judge immediately prior to July 1, 1970, may serve as long as he would have been permitted under the law in effect immediately prior to July 1, 1970.~~

~~B. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire at any time then or thereafter and prior to his mandatory retirement age on upon written notification to the Board setting forth at what time the date the retirement is to become effective. Such effective date shall be after his last day of service but not more than ninety days prior to the filing of such notice.~~

~~C. B. Early retirement. - Any member in service who has either (i) attained his fifty-fifth birthday and completed at least with five or more years of creditable service ; or (ii) in the case of a member of any of the previous systems immediately prior to July 1, 1970, complied with the requirements for retirement set forth under the provisions of such previous system as in effect immediately prior to such date July 1, 1970 , may retire upon written notification to the Board setting forth at what time the date the retirement is to become effective. Such effective date shall be after his last day of service but shall not be more than ninety days prior to the filing of such notice.~~

~~D. C. Deferred retirement for members terminating service. - Any member terminating who terminates service on or after July 1, 1970, after five or more years of creditable service, may retire under the provisions of subsection A or B or C of this section, provided that if he shall has not have withdrawn his accumulated contributions prior to the effective date of his retirement ; and except that any . For the purposes of this subsection, any requirements as to the member being in service shall not apply. However, any member shall be entitled to the benefits of this subsection if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. No member shall be entitled to the benefits of this subsection if his appointing authority certifies that his service was terminated because of dishonesty, malfeasance , or misfeasance in office. Such The certification may be appealed to the Board ; and its decision shall be final .~~

~~D. Effective date of retirement. - The effective date of retirement shall be after the last day~~



of service of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

E. *Notification of retirement.* - In addition to the notice to the Board required ~~in~~ by this section, the same notice shall be given by the member to his appointing authority ~~F.~~ In the event ~~the~~ If a member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit ~~such~~ notification to the Board on his behalf.

DRAFTING NOTE: Existing subsection A is repealed since the Supreme Court of Virginia has ruled that the Federal Age Discrimination in Employment Act provides there can be no mandatory retirement of judges. The last sentence of existing subsections B and C is set out separately in proposed subsection D. The sentence in existing subsection D allowing a member to receive a deferred benefit if he has five or more years of employer-paid service for which contributions cannot be withdrawn is deleted since all employer-paid contributions are credited in the member accounts and can be withdrawn upon termination of employment. In existing subsection D, the provision that the Board's decision is final was deleted because it is probable that the Board's decision could be appealed. Other changes are language revisions only.

§ ~~51-168~~ *51.1-306* . Service retirement allowance.— ~~(a)~~ A. Retirement allowance. - Upon retirement as provided in § ~~51-167~~, on or after July 1, 1984, a member shall receive an annual retirement allowance, payable monthly to him for life determined in accordance with subdivision ~~(i)~~ or ~~(ii)~~ whichever is applicable as follows :

~~(i)~~ 1. Normal retirement under § ~~51-167~~ B . - An amount, not to exceed seventy five percent of his average final compensation, equal to ~~(A)~~ 1.5 percent of his average final compensation multiplied by his number of years of creditable service, or ~~(B)~~ The allowance shall equal 1.65 percent of his average final compensation minus \$1,200 multiplied by his number of years the amount of creditable service ; whichever is larger, subject, however, to the provisions of subsection ~~(b)~~ of this section. A member who terminated employment prior to July 1, 1974, shall receive an allowance equal to 1.65 percent of average final compensation as defined in § ~~51-161~~ ~~(12)~~ minus \$1,200 multiplied by his number of years of credited service. Such . The allowance shall not exceed seventy-five percent of the average final compensation of the member .

~~(ii)~~ 2. Early retirement under § ~~51-167~~ C . - An amount, not to exceed seventy five percent of his average final compensation, which The allowance shall be determined in the same manner as for retirement at his normal retirement date, with years of creditable service and average final compensation being determined as of the date of his actual retirement ; provided, that if . If the member either: ~~(A)~~ has not attained his sixtieth birthday at his date of retirement, or ~~(B)~~ has less than thirty years of service at his date of retirement , the amount of the retirement allowance so determined shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of ~~(1)~~ ~~(i)~~ his normal retirement date or ~~(2)~~ ~~(ii)~~ the first date on or after his sixtieth birthday on which he would have completed a total of thirty years of creditable service had he been continuously in service from his date of retirement until such first date .

~~(b)~~ B. Normal and early retirement guarantees. - Any member who was a member of one of the previous systems immediately prior to July 1, 1970, and who would have been eligible for retirement benefits thereunder as of the date of his actual retirement under subsection B or C of § ~~51-167~~ if he had continued to participate therein, shall be guaranteed a minimum retirement allowance no less than that for which he would have qualified thereunder as of such date had he continued to participate therein .

Any member who was a member of one of the previous systems immediately prior to July 1, 1970, and who has, prior to July 1, 1977, attained the age of sixty years and served as a circuit judge for twenty or more years, shall be entitled to have his retirement allowance determined on his creditable compensation at the time his retirement becomes effective.

The guarantees provided in this subsection for members retiring under subsection C of § ~~51-167~~ shall, however, be reduced on an actuarial equivalent basis for the period that the actual retirement date precedes the normal retirement date; provided, that the retirement allowance of a member retiring on or after his sixtieth birthday and with at least thirty years of creditable service shall not be so reduced.

~~(c)~~ C. Determination of retirement allowance. - For the purposes of subsections ~~(b)~~ and ~~(d)~~ subsection B of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance as provided in § ~~51-171~~ is elected.

(d) Maximum retirement allowance. - On and after July 1, 1974, no member shall receive a retirement allowance payable hereunder which, when added to one-half of the primary social security benefit to which he is or would be entitled at his sixty-fifth birthday under federal law, will be in excess of his average final compensation. In no event shall benefits payable for service credited prior to July 1, 1974, be less than the benefits that would have been payable had they been calculated under the benefit formula in effect immediately prior to July 1, 1974.

(e) D. Beneficiary serving in position covered by this title. - Should If a beneficiary of a service retirement allowance under this chapter or under any of the previous systems be is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 2-1 (~~§ 51.1-11.1 et seq.~~) 7 (~~§ 51.1-700 et seq.~~) of this title, his retirement allowance shall cease while he is so employed.

DRAFTING NOTE: Formula A in subdivision 1 of subsection A is stricken since formula B now provides the higher benefit for all members of the system. The \$1,200 offset is being removed. This change provides a slight increase in retirement benefits. The second paragraph of existing subsection (b) is repealed because of its limited application. However, any beneficiaries will not be affected because of § 51.1-402. The last paragraph in existing subsection (b) is repealed since the four judges to whom it would be applicable will need to be sixty years of age in order to retire under the provisions of the previous systems and their actual rendered service will provide more than thirty years of creditable service when the weighting factor is applied. In subsection C, reference to subsection (d) is deleted since it is being repealed because the Tax Reform Act of 1986 no longer allows the integration of social security and retirement benefits. Other changes are language revisions only.

~~§ 51-160~~ 51.1-307. Disability Notice of disability retirement generally. - (a) Any member in service or within ninety days after termination of service may, at any time before his normal retirement date, retire on account of disability not compensable under the Virginia Workers' Compensation Act (~~§ 65.1-1 et seq.~~) upon written notification to the Board setting forth at what date the retirement is to become effective. Such effective date shall be after his last day of service but shall not be more than ninety days prior to the filing of such notification. In addition, the Medical Board, after a medical examination of the member or after reviewing pertinent medical records, shall certify that (i) such member is, and has been continuously since such effective date if prior to the filing of such notification, mentally or physically incapacitated for the further performance of duty, (ii) such incapacity is likely to be permanent and (iii) such member should be retired.

(b) Any member in service or within ninety days after termination of service may retire on account of disability from a cause compensable under the Virginia Workers' Compensation Act, upon written notification to the Board setting forth at what date the retirement is to become effective. Such effective date shall be after his last day of service, but shall not be more than ninety days prior to the filing of such notification. In addition, the Medical Board, after a medical examination of the member or after reviewing pertinent medical records, shall certify that (i) such member is, and has been continuously since such effective date if prior to the filing of such notification, mentally or physically incapacitated for the further performance of duty, (ii) such incapacity is likely to be permanent and (iii) such member should be retired.

(c) In addition to the notice of retirement for disability which is required to be made to the Board ~~required in this section~~, the same notice shall be given by the member to his appointing authority.

(c1) In the event the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit such notification to the Board on his behalf.

(d) In the event no compensation is finally awarded under the Virginia Workers' Compensation Act with respect to the disability of a member, due to legal proceedings or otherwise resulting in settlement from the person, or persons causing such disability, the Virginia Industrial Commission, upon request of the Board, shall for the purpose of this section determine whether such member's disability was from a cause compensable under the Virginia Workers' Compensation Act.

(e) The Board, in its sole discretion, may waive in accordance with rules, regulations and standards prescribed by the Board, the ninety day period of limitation on notification of termination because of disability as set forth in subsections (a) and (b) upon a showing of good cause. Any decision of the Board on waiving such requirement shall be final and not subject to judicial review. The provisions of this section shall apply to any member in service on or after August 15, 1977.

(f) A member shall not be retired for disability for any condition which existed at the time of becoming a member unless medical evidence, convincing to the Board, supports the fact that such pre existing condition has worsened substantially. The provisions of this section shall not be applicable in the case of retirement as provided in Article VI, Section 10 of the Constitution of Virginia.

(g) Any member who has been on leave of absence without pay for a period exceeding twenty four months shall not be entitled to retire under the provisions of this section.

DRAFTING NOTE: Subsections (a), (b), (c1), (d), (e), (f), and (g) are repealed because they duplicate proposed § 51.1-156.

§ 51-170 51.1-308 Disability retirement allowance.— (a) A. Allowance payable on retirement. - Upon retirement as provided in § 51-160 on or after July 1, 1974, for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance, not to exceed seventy-five percent of his average final compensation, payable monthly during his lifetime and continued disability equal to (A) 1.5 percent of his average final compensation or (B) 1.65 percent of his average final compensation less \$1,200, whichever is larger, when multiplied by the smaller of - (i) Twice the number of his years of creditable service ; or (ii) The number of years of creditable service he would have completed at age sixty if he had remained in service to that age ; or in the case of . If a member who has already attained age sixty, the number of his years amount of creditable service at his date of retirement ; subject, however, to the provisions of subsections (b) and (c) of this section shall be used .

(b) Minimum disability retirement allowance. - Notwithstanding the provisions of subsection (a) of this section, the amount of annual retirement allowance as determined under this section shall, effective five months after retirement date and subject to the provisions of subsection (d) of this section, be at least an amount which when added to one-half of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date would equal twenty-five percent of average final compensation.

(c) Special disability retirement B. Workers' compensation guarantee. - Notwithstanding the provisions of subsection (a) of this section, if a member retires for disability under the provisions of subsection (b) of § 51-160 from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.) , the amount of the annual retirement allowance as determined under this section shall, subject to the provisions of subsections (e) and (f) of this section be at least an amount which when added to one-half of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date would equal subsection D, equal sixty-six and two-thirds percent of the member's average final compensation if the member does not qualify for disability benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for disability benefits under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal fifty percent of his average final compensation . A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection (a) A of this section or under the provisions of this subsection.

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

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

(f) E. Reduction of allowance. - Any allowance payable to a member who is disabled retires for disability from a cause compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.) shall be reduced by the amount of any payments under the Virginia Workers' Compensation provisions of the Act in effect on the date of retirement of the member and the excess of the allowance ; if any, shall be paid to such member. When the time for compensation payments of the compensation under such the Act has elapsed, the member shall thereafter receive the full amount of such the allowance payable monthly during his lifetime and continued disability If such the member's payments under the Virginia Workers' Compensation Act are reduced or stopped adjusted or terminated for refusal to work or to comply with the requirements of § 65.1-88, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

(g) Payment. - The payment of any disability allowance hereunder shall be subject to the provisions of §§ 51-111.61 and 51-111.63 to the extent applicable.

(h) Maximum retirement allowance. - On and after July 1, 1974, no member shall receive a retirement allowance payable hereunder which, when added to one half of the primary social security benefit to which he is entitled under federal law, will be in excess of his average final compensation. In no event shall benefits payable for service credited prior to July 1, 1974, be less than the benefits that would have been payable had they been calculated under the benefit formula in effect immediately prior to July 1, 1974.

(i) F. Special retirement allowance guarantee. - Any member retired under the provisions of subsection (a) of § 51-160 from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance payable monthly during his lifetime and continued disability which when added to sixty four percent of the primary social security benefits to which the member may become entitled under the federal Social Security Act in effect at his retirement date, would equal equals fifty percent of the member's average final compensation of such member if the member does not qualify for disability benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for disability benefits under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal thirty-three and one-third percent of his average final compensation

DRAFTING NOTE: Formula A in subsection A is stricken since formula B now provides the higher benefit for all members of the system. The \$1,200 offset is being removed. This change provides a slight increase in retirement benefits. Existing subsection (b) is repealed because of its limited application. However, any beneficiaries will not be affected because of § 51.1-402. Language offsetting retirement allowances by one-half of social security benefits is stricken in subsections (b) and (i) and subsection (h) is deleted since the Tax Reform Act of 1986 no longer allows the integration of social security and retirement benefits. Subsection (g) is deleted since these provisions are found in the Virginia Retirement System and § 51.1-300 provides that the provisions of the Virginia Retirement System apply to and govern the administration of the Judicial Retirement System. Language is inserted in proposed subsections B and F to change the amounts payable based on whether the member qualifies for social security, since retirement and social security benefits may no longer be integrated. Other changes are language revisions only.

§ 51-170.1. Ten percent increase in retirement allowances. On and after July 1, 1973, the retirement allowance payable to each beneficiary prior to that date shall be increased by ten per centum; provided, that such beneficiary has such allowance calculated under the benefit formula provided by this chapter. From July 1, 1973, to July 1, 1974, any retirement allowance which becomes payable under the benefit formula provided by this chapter shall be increased by ten per centum.

DRAFTING NOTE: This section is repealed because of its limited application. However, any beneficiaries will not be affected because of § 51.1-402.

§ 51-171. Optional benefits. Each member shall have the right to elect to have his retirement allowance payable under an actuarially equivalent option as provided in § 51-111.60.

DRAFTING NOTE: This section is repealed since § 51.1-300 provides that except as provided in this chapter the provisions of the Virginia Retirement System apply to and govern the administration of the Judicial Retirement System.

§ 51-172. Withdrawal before retirement. A. If a member has ceased to be a judge otherwise than by death or by retirement under the provisions of this chapter, he shall be paid, on demand or as soon thereafter as practicable, the amount of his accumulated contributions reduced by the amount of any retirement allowances previously received by him under any of the provisions of this chapter.

B. Notwithstanding any provision in subsection A of this section to the contrary, a member who retires under the provisions of subsection (b) of § 51-160 shall be refunded the amount of his accumulated contributions.

DRAFTING NOTE: This section is repealed since § 51.1-300 provides that except as provided in this chapter the provisions of the Virginia Retirement System apply to and govern the administration of the Judicial Retirement System.

§ 51-173. Death before retirement. A. Should a member die at any time before retirement, and if no benefits are payable under subsection B of this section, the amount of his accumulated contributions, reduced by the amount of any retirement allowance previously received by him under this chapter, shall be paid to such person, if any, as he has nominated by a written designation made on a form prepared by the Board signed and acknowledged by such member

before some person authorized to take acknowledgments and filed with the Board, otherwise to his executors or administrators. Any such designation may be changed by the member by written designation of some other person, signed, acknowledged, and filed as aforesaid. In the event no designation has been made, then such proceeds shall be paid to the person or persons surviving at the death of the member in the following order of precedence:

First, to the widow or widower of such member;

Second, if none of the above, to the child or children of such member and descendants of deceased children, per stirpes;

Third, if none of the above, to the parents of such member or the survivor of them;

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

Fifth, if none of the above, to other next of kin of such member entitled under the laws of the domicile of such member at the time of his death.

B. Should a member die in service at any time before retirement and if no benefits are payable under subsection C of this section, there shall be paid a retirement allowance to the person nominated as provided in subsection A of this section, if such person is the (i) wife, (ii) husband, (iii) minor child, (iv) mother or (v) father of the member. Such retirement allowance shall be paid to the first person qualifying in the preceding order of precedence; however, if more than one minor child survives the deceased member, the allowance shall be divided among them in such manner as the Board may determine. Such retirement allowance shall be continued during the lifetime of such person or in the case of a minor child until such time as the child dies or attains the age of majority, whichever shall first occur, and shall be (1) in the case of a member who dies prior to attaining his sixty-fifth birthday, an allowance equal to one-half of the retirement allowance that would have been payable to the member had the member retired under the provisions of subsection C of § 51-167 on the date of his death after having elected to have his allowance payable under the joint and last survivor option described in subdivision (a) (2) of § 51-111.60 so that one-half thereof would be continued after his death to such person, and in the case of a member who had not attained his fifty-fifth birthday at his date of death, it shall be assumed that the member's age at his date of death is fifty-five for the purpose of reducing the benefit on an actuarial equivalent basis; or (2) in the case of a member who dies after attaining his sixty-fifth birthday, an allowance equal to the decreased retirement allowance that would have been payable to the member had the member retired under the provisions of subsection B of § 51-167 on the date of his death after having elected to have his allowance payable under the joint and last survivor option described in subdivision (a) (2) of § 51-111.60 so that the same amount would be continued after his death to such person. Provided that in the determination of the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subsection (b) of § 51-168 shall not apply, and provided further, that if such person so elects in writing, duly acknowledged, the amount of the member's accumulated contributions, reduced by the amount of any retirement allowance previously received by him under this chapter, shall be paid to such person, exclusively in lieu of any other benefits under this section.

Should a member die subsequent to July 1, 1986, meeting the service, age or both service and age requirements, as appropriate, of this subsection B, having nominated and designated a trust as the recipient of his benefits, the trust nominated shall be entitled to disclaim its rights to payment under subsection A of this section by written notification to the Board within ninety days after the death of such member, or in the case of such a member dying after July 1, 1986, but prior to the passage of this legislation, then within ninety days after October 6, 1986. In the event of such a disclaimer, the monthly lifetime retirement allowance shall be paid to the beneficiary of the nominated trust just as if such beneficiary had been nominated by written designation by the member as required in subsection A of this section.

C. Should a member die in service at any time before retirement from a cause compensable under the Virginia Workers' Compensation Act (§ 66.1-1 et seq.), an annual retirement allowance shall be paid to the widow or widower, if any, of such member. In the event no compensation is finally awarded under the Virginia Workers' Compensation Act with respect to the death of a member due to legal proceedings or otherwise resulting in settlement from the person or persons causing such death, the Virginia Industrial Commission, upon request of the Board, shall for the purpose of this section determine whether such member's death was from a cause compensable under the Virginia Workers' Compensation Act. If such member leaves no widow or widower or the widow or widower dies or remarries, then the minor child or children, if any, of the deceased member, shall be paid an allowance until such child or children die or attain the

age of majority, whichever shall first occur. If more than one child survives the deceased member, the allowance shall be divided among them in such manner as the Board may determine. If the deceased member leaves neither widow, widower nor child or children under the age of eighteen years, then such allowance shall be paid to the member's parent or parents wholly dependent upon him for support divided in such manner as the Board may determine, during the life or lives of such parent or parents.

The retirement allowance payable hereunder to qualifying survivor or survivors, shall be the annual amount, payable monthly, which when added to one half of the social security benefit payable to such qualifying survivor or survivors as the result of coverage of the member under the federal Social Security Act and the compensation payable under the Virginia Workers' Compensation Act for the death of the member, shall be equal to one half of the member's average final compensation.

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

DRAFTING NOTE: This section is repealed since § 51.1-300 provides that except as provided in this chapter the provisions of the Virginia Retirement System apply to and govern the administration of the Judicial Retirement System. The last paragraph of subsection B is repealed because of its limited application. However, any beneficiaries will not be affected because of § 51.1-402.

§ 51-173.1. Disbursement by affidavit. If it is determined that payment under § 51-173 or § 51-174 is to be made to the estate of a member or former member and there has been no appointment of a representative of the estate within the sixty days following the death of the member or former member, payment may be made to a person claiming to be the successor of the decedent upon presentation of an affidavit as set forth in § 51-111.58:2.

Upon receipt of a properly executed affidavit, the retirement system is discharged and released to the same extent as if dealing with an appointed representative of the estate of the decedent. The retirement system shall not be required to see to the application of benefits or evidence thereof or to inquire into the truth of any statement in the affidavit. Any person to whom payment is made is answerable and accountable therefor to any appointed representative of the estate or to any other person having a superior right.

DRAFTING NOTE: This section is repealed since § 51.1-300 provides that except as provided in this chapter the provisions of the Virginia Retirement System apply to and govern the administration of the Judicial Retirement System.

§ 51-174. Death after retirement. If a member dies after the effective date of his retirement under this chapter, the excess, if any, of his accumulated contributions as of the effective date of his retirement, over the total retirement allowances received by him shall be paid in the same manner as provided in subsection A of § 51-173 in the case of death before retirement unless the retirement allowance is then being paid in accordance with any of the options of § 51-111.60.

DRAFTING NOTE: This section is repealed since § 51.1-300 provides that except as provided in this chapter the provisions of the Virginia Retirement System apply to and govern the administration of the Judicial Retirement System.

§ 51-174.1. Post retirement supplements. In addition to the allowances payable under §§ 51-168, 51-170, 51-171 and 51-173 of this chapter, post retirement supplements shall be payable in accordance with the provisions of § 51-111.60:1; provided, however, that the amounts of post retirement supplements shall be determined initially as of July 1, 1974; and provided, further, that the supplements shall be payable to judges, assistant attorneys general and clerks of the Senate and House of Delegates, and to the beneficiaries of any such persons retired under the provisions of any of the previous systems as they may have existed immediately prior to July 1, 1970, or pursuant to the third enactment of Chapter 770 of the Acts of Assembly of 1970.

DRAFTING NOTE: The language of this section is repealed since § 51.1-300 provides that except as provided in this chapter the provisions of the Virginia Retirement System apply to and govern the administration of the Judicial Retirement System. Provisions for the payment of post-retirement supplements to former members and beneficiaries receiving benefits from the previous systems are being repealed because they are of limited application. Any benefits payable will be continued under the provisions of § 51.1-402.

§ 51-175. Group insurance benefits. The members of the system, through coverage under the group insurance contract or contracts provided for in § 51-111.67:1 are eligible for the insurance



benefits described in § 51-111.67:4, subject to the employee contributions provided for in §§ 51-111.67:5 and 51-111.67:6 and the other applicable provisions of Article 9 (§ 51-111.67:1 et seq.) of Chapter 3-2.

DRAFTING NOTE: This section is being repealed because proposed § 51.1-502 provides that members of the Judicial Retirement System are eligible to participate in the group life insurance program administered by the Virginia Retirement System.

§ 51-176.1. District court judges. (a) Judges of the district courts shall be members of the judicial retirement system subject to the following:

(1) Any judge of a district court who is a member of the judicial retirement system on June 30, 1973, shall continue as a member and the establishment of the district court system shall not affect his status in the judicial retirement system.

(2) Any judge of a district court who is not a member of the judicial retirement system on June 30, 1973, but who is a judge of a court not of record and a participant in a local retirement system on that date may elect to become a member of the judicial retirement system. Any judge who so elects may transfer from such local system as prior service his creditable service earned in such local system in the capacity of a judge or trial justice, in which event the locality operating such system shall transfer to the retirement system all funds credited to the account of such judge, whether contributed by such judge or by the locality. Such service shall be weighted as provided in subsection (c) of § 51-163.

(3) Any judge of a district court who is a judge of a court not of record on June 30, 1973, but who is not a member of the judicial retirement system or any local retirement system may elect to become a member of the retirement system.

(4) Any judge of a district court who becomes a judge on or after July 1, 1973, shall become a member of the judicial retirement system.

(a1) Any judge of a district court who is a judge of a court not of record on June 30, 1973, and a participant in a local retirement system as of that date, but who does not elect to participate in the retirement system under subdivision (2) above shall continue to be eligible to participate in such local system to the extent of his entire state salary and local supplement.

(b) The election authorized under subdivisions (2) and (3) of subsection (a) shall be exercised by those electing to become members by filing written notice of such election with the Board prior to October 1, 1973.

(c) Notwithstanding any provision of law, any judge of a district court of a city who had previously served such city as a substitute judge shall have such substitute service transferred as prior service to the retirement system under subdivision (a) (2) herein; provided, (i) such judge makes the election authorized under subdivision (a) (2) herein, (ii) such city had no part time judgeships during the period to be credited, (iii) such judge makes the payment required by the local retirement system for the period to be credited and (iv) such payment is transferred to the retirement system.

DRAFTING NOTE: This section is repealed since the time limitation has expired and the section is obsolete.

§ 51-178. Temporary recall and assignment to duties of certain retired justices, judges and commissioners. —A. Recall for court of record duties. - The Chief Justice of the Supreme Court may call upon and authorize any justice or judge of a court of record who is retired under the provisions of Chapter 7 (§ 51-160 et seq.) of this title either to (i) hear a specific case or cases pursuant to the provisions of § 17-7, such designation to continue in full force and effect for the duration of the case or cases, or (ii) perform for a period not to exceed ninety days at any one time, such judicial duties in any court of record as the Chief Justice shall deem in the public interest for the expeditious disposition of the business of the courts of record.

B. Recall for district court duties. - The Chief Justice of the Supreme Court may call upon and authorize any judge of a district court who is retired under the provisions of Chapter 7 (§ 51-160 et seq.) of this title to perform, for a period not to exceed ninety days at any one time, such judicial duties in any district court as the Chief Justice of the Supreme Court shall deem in the public interest for the expeditious disposition of the business of such courts.

C. Recall for commission duties. - The State Corporation Commission and Industrial Commission may call upon and authorize any commissioner who is retired under the provisions of Chapter 7 (§ 51-160 et seq.) of this title to perform, for a period not to exceed ninety days at any one time, such duties for his former commission as that commission deems in the public

interest for the expeditious disposition of its business.

D. **Obligation to serve.** - It shall be the obligation of any retired justice, judge or commissioner who is recalled to temporary service under subsections A, B or C hereof and who has not attained age seventy to accept the recall and perform the duties assigned. It shall be within the discretion of any such justice, judge or commissioner who has attained age seventy to accept such recall.

E. **Position while recalled to service.** - Any justice, judge or commissioner recalled to duty hereunder shall have all the powers, duties and privileges attendant on the position he is recalled to serve.

F. **Reimbursement.** - Any justice, judge or commissioner serving on temporary recall shall be reimbursed from the state treasury actual expenses incurred during service and be paid a per diem of \$150 as an independent contractor. The per diem shall be paid for each day such justice, judge or commissioner actually sits, exclusive of travel time. A retired justice of the Supreme Court or judge of the Court of Appeals recalled to active service shall be furnished an office, office supplies and stenographer while performing such active service.

DRAFTING NOTE: This section is being divided and moved to other titles of the Code. Subsections A, D, E, and the last sentence of subsection F will become § 17-7.01. Subsections B, D, and E will become § 16.1-69.22:1. Subsections C, D, and E will become §§ 12.1-11.1 and 65.1-10.1. Subsection F will become § 14.1-39.1.

§ 51-179 ~~51.1-309~~. **Practice of law by certain retired judges and commissioners Appearance as counsel in certain forums prohibited.** - 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 Chapter 7 (~~§ 51-160 et seq.~~) of Title 51 *the Judicial Retirement System*, shall appear as counsel in any case in any court of the Commonwealth.

No former commissioner member of the State Corporation Commission or Industrial Commission, who is retired and receiving retirement benefits under the provisions of Chapter 7 (~~§ 51-160 et seq.~~) of Title 51 *the Judicial Retirement System*, shall appear as counsel in any case before the Commission of which he was formerly a member.

DRAFTING NOTE: No change in the law.

#### CHAPTER 4. PROVISIONS COORDINATING PAST

#### AND PRESENT RETIREMENT PLANS.

CHAPTER DRAFTING NOTE: Most of the sections in this chapter have been repealed because they are obsolete. Many of the repealed provisions dealt with the transfer of funds from the Virginia Retirement System which was abolished in February 1952, to the Virginia Supplemental Retirement System when it was established in March 1952. Other sections are obsolete because they allow members of the Virginia Supplemental Retirement System to pay for social security coverage retroactively to January 1, 1951, and the time period for obtaining retroactive coverage has expired. Other sections provided increases in retirement benefits for members who retired prior to 1952. A new section has been added which allows benefits to continue to be paid to members of former systems and which also provides that members of the current systems will retain their rights to benefits payable prior to the effective date of this act. Other sections are added or moved from elsewhere in the title because they apply to only a limited number of people but must be amended because they grant guaranteed benefits which were integrated with social security. The Tax Reform Act of 1986 does not permit the integration of social security and retirement benefits. The name of the chapter was changed from "Provisions Coordinating Past and Present Security and Retirement Plans" to "Provisions Coordinating Past and Present Retirement Plans" because provisions relating to social security were deleted.

§ 51-111.68. **Conditions of repeal of Virginia Retirement Act.** The repeal of Chapter 3 (~~§ 51-30 et seq.~~) of Title 51 and all amendments thereto is subject to the following provisos:

(a) Any person retired for service under such chapter and receiving or entitled to receive benefits thereunder prior to its repeal, including any person covered by § 51-110, shall continue to receive the same or shall continue to be entitled to receive the same to the same extent and in the same manner as if such chapter had not been repealed. If any such person shall have elected to take his retirement benefit under one of the options of such chapter, his beneficiary shall, upon the death of the retiree, receive such amount as was provided under such chapter.

(b) Any beneficiary receiving an allowance as a result of an election made by a person retiring under such chapter shall continue to receive such allowance as under such chapter provided.

(c) Any person retired for disability under such chapter and receiving benefits or entitled to receive benefits thereunder prior to its repeal, including any person covered by § 51-110, shall, so long as he continues to meet the tests therefor prescribed in such chapter, continue to receive the same or shall continue to be entitled to receive to the same extent and in the same manner as if such chapter had not been repealed. At such time as he shall cease to meet such requirements his benefits shall cease and as to him the chapter shall have no further application. If any person retired for disability under such chapter and receiving benefits thereunder prior to its repeal shall have elected to take his retirement benefit under one of the options of such chapter, his beneficiary shall, upon the death of the retirant, receive such amount as was provided under such chapter.

(d) Any person who, as of February 1, 1952, meets the requirements for retirement under Chapter 3 of Title 51 but who has not made application for benefits under such chapter may make such application and be retired on or before February 15, 1952, as if such chapter had not been repealed. He shall thereafter receive benefits to the same extent and in the same manner as if such chapter had not been repealed.

(e) If any person having made contributions under such chapter dies prior to its repeal but before retiring his accumulated contributions shall be paid out as he shall have directed in writing. In the absence of such written direction his accumulated contributions shall be paid to his estate. This paragraph shall apply also to any person dying subsequent to repeal but before receiving his contributions.

(f) Interest on members' accumulated contributions shall cease as of February 1, 1952.

(g) The accumulated contributions of the members shall be set aside in a trust fund designated as Fund A to be held for refund to the respective persons or beneficiaries entitled thereto; no interest shall be allowed. Until refunded or otherwise disposed of, such funds, interests therein, and rights thereto shall not be subject to legal, judicial or other process.

(h) Within one year following February 1, 1952, and in any event as soon as reasonably convenient, the accumulated contributions of the members shall be returned to the persons respectively entitled thereto, unless the member in writing shall have affirmatively directed the custodian of such fund to transfer such member's contribution to some retirement system which may be established on or after March 1, 1952.

In any event, if no election has been made such member's contributions shall be returned to him or, if deceased, to be paid as he shall have directed. In the absence of such written direction his accumulated contributions shall be paid to his estate.

(i) All accumulated contributions of the Commonwealth and of any other employer of retired members under such act required to meet vested rights shall be set aside in the state treasury as a trust fund and expended for no other purpose. Such fund shall be designated Fund B.

(j) The Board of Trustees of the Virginia Retirement System and the Director thereof are continued in order to provide for the payment of vested rights, and the return of accumulated contributions under the Virginia Retirement System abolished by Chapter 1 of the Acts of 1952 and to administer the State Police Officers Retirement System.

DRAFTING NOTE: Subsections (a), (b), and (c) are repealed because they are of limited application and are obsolete. However, if there are any beneficiaries they will not be affected because of § 51.1-402. Subsections (d), (e), and (h) are repealed since the time periods have expired and they are obsolete. Provisions allowing for termination of benefits in subsection (c) are repealed since these people have been retired for disability for 37 or more years and it is not likely they will return to work in covered positions. The provisions of subsections (f) and (g) have been made into a new section, proposed § 51.1-401. Subsection (i) is repealed since the funds have been transferred into the retirement allowance account of the Virginia Supplemental Retirement System. Subsection (j) is moved to proposed § 51.1-110, relating to the powers and duties of the Board of Trustees.

§ 51.1-400. Definitions.—The definitions listed in §§ 51.1-101, 51.1-201, and 51.1-301 shall apply to this chapter except as otherwise provided.

DRAFTING NOTE: This section was added so that the definitions in Chapters 1, 2, and 3 will apply

§ 51.1-401. *Accumulated contributions under abolished system*—The accumulated contributions of the members of the abolished system shall be refunded to the persons entitled to the contributions. No interest shall accumulate after February 1, 1952. Until refunded or otherwise disposed of, such funds, interests therein, and rights thereto shall not be subject to legal, judicial, or other process.

DRAFTING NOTE: This section is composed of subsections (f) and (g) of existing § 51-111.68.

§ 51-111.68:1. *Transfer of funds to Retirement Allowance Account*.—Notwithstanding any other provisions of law, when it appears to the Board that there are funds on deposit on behalf of an employer or member in Fund A or Fund B for which there is no longer a necessity to keep a separate accounting, the Board may transfer such funds to the credit of the employer in the Retirement Allowance Account of the Virginia Supplemental Retirement System.

DRAFTING NOTE: This section is obsolete since the funds have been transferred to the retirement allowance account of the Virginia Supplemental Retirement System.

§ 51-111.60. *Certain benefits under certain former plans*.—(1) Any former teachers who were retired under the provisions of Chapter 36 of the Code of 1919 as it existed immediately prior to July 1, 1942 and (2) any teachers and state employees retired since June 30, 1942 under the provisions of the repealed Virginia Retirement Act with thirty or more years of service in case of service retirement or twenty or more years of service in case of disability retirement shall be entitled to and shall receive a retirement allowance in an amount which, when added to the annual retirement allowance otherwise payable, shall be not less than \$600 per annum; provided, however, that any retired teacher or state employee, receiving a retirement allowance under one of the options of the repealed Virginia Retirement Act, which allowance is less than \$600 per annum, shall receive an increase in such allowance proportionate to the increase that such retired person would have received as above provided on a straight life annuity as set forth in such repealed Virginia Retirement Act; provided, further, that the beneficiary of any retired teacher or state employee receiving an allowance on June 30, 1964, or subsequent thereto shall receive a proportionate increase in such allowance equivalent to the increase that the grantor of such allowance would have received under the next preceding proviso.

DRAFTING NOTE: This section is repealed since it is obsolete. Language continuing the allowances payable to former teachers and state employees under the provisions of Chapter 36 of the Code of 1919 and the repealed Virginia Retirement Act is inserted in § 51.1-402.

§ 51-111.70. *Further provisions concerning benefits under such plans*.—On and after July 1, 1958 the amount of the retirement allowance otherwise payable to (1) any former teachers who were retired under the provisions of Chapter 36 of the Code of 1919 as it existed immediately prior to July 1, 1942 or (2) any teachers and state employees retired since June 30, 1942 under the provisions of the repealed Virginia Retirement Act with thirty or more years of service in case of service retirement or twenty or more years of service in case of disability retirement, provided, in the case of service retirement such teacher or state employee has attained sixty-five years of age, shall be entitled to and shall receive a retirement allowance in an amount, which, when added to the annual retirement allowance otherwise payable shall not be less than \$1,020 per annum; provided, however, that this provision shall not apply to increase any retirement allowance of any retired teacher or state employee receiving a retirement allowance which would have amounted to \$1,020 per annum if a reduced allowance had not been elected under one of the options under the repealed Virginia Retirement Act, nor shall this provision apply to increase the annual retirement allowance of any beneficiary who is receiving or who may receive a retirement allowance as a beneficiary under one of the options elected under the repealed Virginia Retirement Act. It is further provided that any person, who was a member of the abolished system having not been refunded contributions credited to his account and who would have been credited with thirty or more years of service as a teacher or state employee in the abolished system, except for the provisions of the abolished act authorizing establishment of prior service credit, may, upon attaining age sixty-five, qualify for and be paid the allowance herein provided.

DRAFTING NOTE: This section is repealed since it is obsolete. Language continuing the allowances payable to former teachers and state employees under the provisions of Chapter 36 of the Code of 1919 and the repealed Virginia Retirement Act is inserted in § 51.1-402.

§ 51-111.70:1. *Additional benefits for teachers and state employees retired under such plans*.—(a) On and after July 1, 1962, the amount of the retirement allowance otherwise payable thereafter, including any increase in such allowance payable under § 51-111.70, to any former teachers or state employees retired under the provisions of Chapter 36 of the Code of 1919 as it existed immediately prior to July 1, 1942, or the provisions of the repealed Virginia Retirement Act, and who, in the case of service retirement, have attained sixty-five years of age, shall be increased by twelve and one-half per centum.

(b) On and after July 1, 1964, each retired teacher and state employee included under subsection (a) hereof shall have his retirement allowance increased by ten per centum of the total amount otherwise payable under subsection (a).

(c) On and after July 1, 1966, each retired teacher and state employee included under subsection (a) hereof shall have his retirement allowance increased by twenty two and two tenths per centum of the total amount otherwise payable under subsections (a) and (b).

(d) On and after July 1, 1968, each retired teacher and state employee included under subsection (a) hereof shall have his retirement allowance increased by ten per centum of the total amount otherwise payable under subsections (a), (b) and (c).

(e) On and after July 1, 1970, each retired teacher and state employee included under subsection (a) hereof shall have his retirement allowance increased by nine and one tenth per centum of the total amount otherwise payable under subsections (a), (b), (c) and (d).

DRAFTING NOTE: This section is repealed since it is obsolete. Language continuing the allowances payable to former teachers and state employees under the provisions of Chapter 36 of the Code of 1919 and the repealed Virginia Retirement Act is inserted in § 51.1-402.

~~§ 51 111.70:2. Certain former teachers to be paid post retirement supplement. On and after July 1, 1970, any former teacher or state employee retired under the provisions of Chapter 36 of the Code of 1919 as it existed immediately prior to July 1, 1942, or the provisions of the repealed Virginia Retirement Act shall be paid a post retirement supplement as provided for in § 51 111.60:1 with respect to beneficiaries under the Virginia Supplemental Retirement Act (§ 51 111.0 et seq.). The amount of any such post retirement supplement shall be computed as provided for in § 51 111.60:1 except that the calendar year in which the allowance initially commenced shall be assumed to be 1962, in each case regardless of the actual year of commencement, and the supplement shall be determined as a percentage of the allowance otherwise payable, including any increases provided for in § 51 111.70 and in § 51 111.70:1.~~

DRAFTING NOTE: This section is being repealed because it is of limited application and is obsolete. However, if there are any beneficiaries, they will not be affected because of § 51.1-402.

~~§ 51 111.71. Times of payment of retirement benefits under such plans or under any act of 1952. —All benefits payable to persons retired under the provisions of Chapter 36 of the Code of 1919 or under the provisions of Chapter 3 (§ 51-30 et seq.) of Title 51 as the same was in force prior to its repeal on February 1, 1952, or to persons who retire under any retirement act applicable to state employees and teachers generally passed by the General Assembly of 1952 shall be paid to the persons entitled thereto in equal monthly installments, unless the person entitled thereto has selected some other less frequent manner or time of payment, subject to approval of the Board of Trustees of the Virginia Supplemental Retirement System.~~

DRAFTING NOTE: This section was rewritten to apply to all benefits payable by the retirement system and moved to Chapter 1 (§ 51.1-104).

~~§ 51 111.72. Failure of political subdivision to make social security payments. In the event any political subdivision required by law and by any agreement pursuant to such law to make payments to the contribution fund established by the General Assembly of 1952 fails to make such social security payments as are duly prescribed, either from its local employees or its special employees or on behalf of its employers' contribution, the Board of Trustees of the Virginia Supplemental Retirement System or any successor to such board shall inform the Comptroller of the delinquent amount and political subdivision. The Comptroller shall forthwith transfer such amount to the contribution fund from any non earmarked moneys otherwise distributable to such subdivision by any department or agency of the Commonwealth; provided that if the Comptroller reports to the Board of Trustees that, by law, no such amounts are distributable to a specified political subdivision the Board shall require such subdivision to post bond or securities in an amount sufficient to protect the Commonwealth against loss from failure by such subdivision to pay any amounts required under the act providing social security coverage.~~

DRAFTING NOTE: This section is repealed since the contributions are no longer submitted to the retirement system but are paid directly to the Internal Revenue Service.

~~§ 51 111.73. Continued employment as acknowledgment of social security payments owed by employees. —Prior to the date of execution of any agreement entered into pursuant to law and providing for social security benefits for employees of the Commonwealth and of any local political subdivision, the head of each state agency and the governing body of each such local political subdivision shall notify, in writing, each employee included in such agreement that continued employment on the date of execution of the agreement, or a stated date prior thereto, will constitute an acknowledgment by the employees of the social security contribution pursuant to the agreement to be paid by each such employee for salary or wages received from the state~~

of local political subdivision during the period January 1, 1951, through February 20, 1952, inclusive; or through the date of execution of an agreement by a local political subdivision if later; and any employee continuing employment on the date of execution of such agreement, or such stated date prior to the agreement, shall be deemed to have acknowledged the payment owed by him.

DRAFTING NOTE: This section is repealed since the time limit has expired and the section is obsolete.

~~§ 51-111.74. Advance of social security payments for employees; repayment of advances.— However, in order that state employees, local special employees, and teachers may pay the required sum in installments, there is appropriated from the general fund of the state treasury to the contribution fund established by the General Assembly of 1952, as an advance of the payments for such employees, a sum sufficient, estimated at \$2,000,000. In partial repayment of the advance contribution made for state employees, the Comptroller shall continue, during the month of February, 1952, to deduct from the salary of each employee an amount equal to the sum deductible under the Virginia Retirement Act. Further, in repayment of the advance contribution made for state employees, the Comptroller shall deduct from each employee's salary or wage, payment during the period March 1, 1952, through June 30, 1952, inclusive, a proportionate portion of the sum owed to the Commonwealth. However, the Comptroller is authorized to accept any lump sum payment or additional amounts paid by any state employee on his account. Each local political subdivision whose employees' payments to the contribution fund have been paid from this appropriation shall make proportionate repayment to the general fund of the state treasury during the period March 1, 1952, through June 30, 1952, inclusive. In the event any such local political subdivision fails to make such repayments, the Comptroller shall take action as provided in § 51-111.72.~~

DRAFTING NOTE: This section is repealed since the time limit has expired and the section is obsolete.

*§ 51.1-402. Continuation of benefits; amount of life insurance.—A. Any former teachers retired under the provisions of Chapter 36 of the Code of 1919, any former members of the abolished system retired under the provisions of that system, any members or former members of the Virginia Supplemental Retirement System, the State Police Officers' Retirement System, or the Judicial Retirement System who retired under the provisions of the applicable system or who were eligible to receive benefits under the provisions of the applicable system as it existed prior to the effective date of this act, and any beneficiaries of such members shall continue to receive the benefits to which they were entitled or to which they would have become entitled prior to the effective date of this act.*

*B. All persons who were members of the systems established by Chapters 2, 2.1, and 2.2 of Title 51 immediately prior to July 1, 1970, shall be entitled to all rights and benefits to which they or their beneficiaries were or would have been entitled to thereunder and shall be entitled to all rights and benefits to which they or their beneficiaries were or would have been entitled under the provisions of Chapter 7 of Title 51 as it existed prior to the effective date of this act.*

*C. The amount of life insurance on each insured employee who retired prior to the effective date of this act shall be determined under the provisions of the group insurance program in existence on the employee's date of retirement.*

DRAFTING NOTE: This section continues the benefits being paid to former members and their beneficiaries under the provisions of the former systems and also provides that current members will not lose any benefits to which they are entitled. Subsection C is a revision of a portion of subsection (e) of § 51-111.67:4.

*§ 51.1-403. Service retirement allowance.—A. Member contributions. - Any member who was a former member of the abolished system, who transferred his accumulated contributions to the retirement system, and who has not withdrawn such contributions may, at the time of filing his notice of retirement, deposit in his member's contribution account an amount which will increase his total retirement allowance to an amount not greater than the largest amount obtainable under the applicable provisions of subsection C of this section.*

*B. Normal retirement guarantee. - The retirement allowance payable upon normal retirement to a former member of the abolished system who transferred his accumulated contributions to the retirement system and who has not withdrawn his contributions prior to retirement shall not be less than the service retirement allowance to which the member would have been entitled under the provisions of the abolished system if he had continued contributions in the amount in effect on the date the system was abolished. In the case of a member with thirty or more years of creditable service, the larger of such allowance or \$2,036.28 annually shall be paid.*

*C. Early retirement guarantee. - The retirement allowance payable upon early retirement to*



a former member of the abolished system who transferred his accumulated contributions to the retirement system and who has not withdrawn his contributions prior to retirement, and who would have qualified prior to normal retirement for a service retirement allowance under the abolished system, shall, prior to the member's sixty-fifth birthday, not be less than the service retirement allowance that would have been payable under the provisions of the abolished system. After the member's sixty-fifth birthday, it shall not be less than the larger of such allowance or \$2,036.28 annually.

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

DRAFTING NOTE: Subsection A was formerly subsection (f) of § 51-111.46. Subsections B, C, and D were formerly subsections (c), (d), and (e) of § 51-111.55. References to integrating social security benefits in subsections (c) and (d) were not retained because the Tax Reform Act of 1986 does not permit the integration of social security and retirement benefits. All of the subsections were rewritten for clarity and moved to this chapter because of their limited application. The \$2,036.28 is the guarantee that became effective July 1, 1973, as a result of a change in the benefit formula.

§ 51.1-404. *Disability retirement.*—A. *Disability retirement guarantee.* - The disability allowance payable to a former member of the abolished system who transferred his accumulated contributions to the retirement system and who has not withdrawn such contributions prior to retirement shall not be less than \$2,036.28 annually.

*B. Minimum disability retirement allowance.* - Effective five months after the effective date of retirement, the amount of annual retirement allowance shall equal \$1,000 or twenty-five percent of the average final compensation of the member, whichever is larger. Except for members of the Judicial Retirement System, any member with twenty or more years of creditable service at the time of retirement shall, effective five months after the effective date of retirement, receive a retirement allowance of not less than \$2,036.28 annually.

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

DRAFTING NOTE: This section was moved from former § 51-111.57 and rewritten. References to integrating social security benefits were deleted since the Tax Reform Act of 1986 no longer permits the integration of social security and retirement benefits.

§ 51.1-405. *Special retirement guarantee.*—The retirement allowance payable to any member of the State Police Officers' Retirement System who was in service on June 30, 1966, and who retires on or after his normal retirement date shall equal two percent of his average final compensation multiplied by his years of creditable service not in excess of twenty-five years. If a member retires prior to his normal retirement date, his allowance shall be determined in the same manner; however, the allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the normal retirement date. For the purposes of this section, the retirement allowance shall be determined on the assumption that it is payable to the member alone and that no optional retirement allowance is elected.

DRAFTING NOTE: This section is existing subsections C and D of § 51-151. They have been moved to this chapter because of their limited application. Language providing for the integration of social security benefits at age 65 has been deleted since the Tax Reform Act of 1986 no longer permits the integration of social security and retirement benefits.

## CHAPTER 5.

### GROUP INSURANCE PROGRAM.

CHAPTER DRAFTING NOTE: Provisions concerning the group insurance program were made into a separate chapter. A definitional section was added. The group life insurance program was established in 1960. Obsolete language establishing the program and providing transition between the program and other life insurance coverage was repealed. All state agencies and school boards having other life insurance plans have terminated them and participate in the state program. Obsolete language providing that political subdivisions had two years to elect to participate in the group insurance program without Board approval was removed. A provision that each policy purchased by the Board shall provide for an accounting to the Board within ninety days after the end of the policy year was changed to 120 days because this is actual practice. Language authorizing a special contingency reserve was eliminated because the reserve has not been established and it is not expected to be established. A provision for an advance premium deposit reserve was added.

§ 51.1-500. Definitions.—As used in this chapter, unless the context requires a different meaning:

“Company” means insurance company.

“Group insurance program” or “insurance program” means the policy purchased by the Board which provides group life, accidental death, and dismemberment insurance coverage for employees.

In addition to the definitions listed above, the definitions listed in § 51.1-101 shall apply to this chapter except as otherwise provided.

DRAFTING NOTE: Under Title 51, the provisions relating to group insurance are an article within the chapter on the Virginia Supplemental Retirement System. The title revision places the group insurance provisions in a separate chapter so it is necessary to state that the definitions for the Virginia Retirement System apply to this chapter. Definitions of “company” and “group insurance program” were added.

~~§ 51-111.67:1~~ 51.1-501 Board authorized to purchase group life and accident insurance policies.— The Board, acting for and on behalf of the Commonwealth of Virginia, may and is hereby specifically authorized to purchase a contract or contracts of insurance, with such reinsurance with a life insurance company or companies incorporated or organized under the laws of and authorized to do business in this Commonwealth as the Board may require, insuring elected and appointed officers and employees, hereinafter referred to as employees or individually as an employee, specified in § 51-111.67:2 who are eligible to participate in the group insurance authorized by this article, or any group or groups or class or classes thereof, including subsequently retired employees, under a policy or policies of group insurance providing life and accidental death and dismemberment insurance; and for such purposes the Board may agree to and pay from funds provided for such purpose the premiums or charges for carrying such contracts. Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges, which charges are determined by the Board to be on a basis consistent with the general level of such charges made by life insurance companies under policies of group life and accidental death and dismemberment insurance issued to large employers. Such insurance shall be purchased and carried with a life insurance company or companies authorized to do business in the Commonwealth which shall have been determined by the Board to maintain in the Commonwealth sufficient staff and facilities to efficiently administer and service such insurance. The Board is authorized to purchase group insurance policies to insure eligible employees. The policies shall provide life, accidental death, and dismemberment insurance and shall be purchased from and carried with a life insurance company authorized to do business in the Commonwealth and which maintains in the Commonwealth sufficient staff and facilities to efficiently administer and service the insurance. Each policy shall contain a provision stipulating the maximum expense and risk charges that are determined by the Board to be on a basis consistent with the general level of charges made by life insurance companies under policies of group life, accidental death, and dismemberment insurance issued to large employers. The Board may require that the policies have reinsurance with a life insurance company incorporated or organized under the laws of and authorized to do business in the Commonwealth.

DRAFTING NOTE: This section was rewritten but there is no change in the content.

~~§ 51-111.67:2~~ 51.1-502 . Eligible employees and officers.— Elected and appointed employees who are eligible to participate in the group insurance provided for by this article are the following, provided if first employed or reemployed after January 1, 1979, age seventy has not been attained:

(1) Teachers, as defined in §§ 51-111.10 and 51-111.10:01 subject to the provisions of subdivision (4) of this section.

(2) State employees, as defined in §§ 51-111.10 and 51-111.10:01, and in addition thereto any member of the State Police Officers Retirement or Judicial Retirement Systems established in Chapters 6 (§ 51-143 et seq.) and 7 (§ 51-160 et seq.) of this title.

(3) (a) Regular full-time employees of a political subdivision participating in the Virginia Supplemental Retirement System as provided in Article 4 (§ 51-111.31 et seq.), Chapter 3.2 of Title 51 and any act amendatory thereof or replacing such statute. Any such subdivision may, at any time prior to the effective date of the first group insurance authorized under this article, decline to participate therein, in which event the employees of such political subdivision shall not be deemed eligible for insurance under this article. Any such political subdivision so declining to participate therein may, at any time during the two-year period next succeeding the effective date of such first group insurance, elect to participate therein, in which event such

employees of such political subdivision shall thereafter become eligible to participate in such group insurance. On and after the expiration of the two year period next succeeding the effective date of such first group insurance, the election of any political subdivision so declining to participate therein to thereafter participate shall be subject to the approval of the Board and such employees of such political subdivision shall become eligible to participate in such group insurance on and after the date of such approval by the Board.

(b) Regular fulltime employees of a political subdivision first participating in the Virginia Supplemental Retirement System as provided in Article 4 (§ 51-111.31 et seq.), Chapter 3-2 of Title 51, after June 30, 1962, may, subject to Board approval, participate in the group insurance provided for in this article to the same extent that would have been permitted if the group had been eligible to participate prior to July 1, 1962, provided that only employees of such political subdivision who have not attained age seventy shall be eligible to participate, and provided further, that seventy five percent of such employees eligible to participate in the group insurance program become covered on the effective date of coverage. Limitation of waiver of group life insurance as provided in § 51-111.67:6 shall be in effect for all employees after the effective date of coverage.

(c) Regular fulltime employees of a local school board who participate in the pension plan of a local government which provides life insurance for its employees under this chapter.

(4) Any regular fulltime employee of an educational corporation who participated in the Virginia Supplemental Retirement System prior to July 1, 1982, may, subject to Board approval, participate in the group insurance provided for in this article to the same extent that would have been permitted if the group had been eligible to participate prior to July 1, 1962; provided that only employees of such educational corporation who have not attained age seventy shall be eligible to participate; and provided further, that seventy five percent of such employees eligible to participate in the group insurance program become covered on the effective date of coverage. Limitation of waiver of group life insurance as provided in § 51-111.67:6 shall be in effect for all employees after the effective date of coverage.

After June 30, 1982, educational corporations may elect, upon such terms and conditions as the Board may determine, to discontinue all insurance under this article with respect to all of its employees in service.

(5) Notwithstanding any provision of this section to the contrary, and with respect to participating employers only, any elected or appointed employee who (i) was under the age of seventy and in service on January 1, 1970, and (ii) had attained the age of sixty when first employed or reemployed, shall be eligible to participate in the insurance provided for by this article; however, notwithstanding any other provision of law, any employee who meets the requirements of (ii) of this paragraph and has five or more years of continuous service immediately prior to retirement, shall after separation from service be eligible to retain the life insurance coverage otherwise provided under this article as though he had retired under the provisions of this chapter. The following persons are eligible to participate in the group insurance program if they have not attained age seventy when first employed or reemployed:

1. Teachers.
2. State employees.
3. Members of the State Police Officers' Retirement System.
4. Members of the Judicial Retirement System.

5. Regular full-time employees of a political subdivision participating in the Virginia Retirement System, subject to Board approval. Employees who have attained age seventy prior to the effective date of coverage shall not be eligible to participate. In order for coverage to become effective, seventy-five percent of the eligible employees must elect to become covered on the effective date of coverage. Limitation of waiver of group insurance as provided in this chapter shall be in effect for all employees after the effective date of coverage.

6. Regular full-time employees of a local school board who participate in the retirement system of a local government which provides group life insurance for its employees under this chapter.

DRAFTING NOTE: This section is rewritten but many of its provisions are retained. Existing subdivision (3)(a) is repealed since the two-year limitation has expired and the subdivision is obsolete. Existing subdivision (4) is repealed since no educational corporation elected to continue coverage under the program. Obsolete language in the first part of existing subdivision (5) was

not retained. The provision relating to persons aged sixty and over when first employed was not retained since it is clear that anyone who has not attained age seventy when first employed or reemployed is eligible. The last part of subdivision (5) is moved to § 51.1-505.

**§ 51.1-503. Limitation on coverage.**—No person shall have more than one coverage under the group insurance program. Any person employed in more than one position which provides coverage under the group insurance program shall elect one position on which his coverage shall be based by written notification to the Board.

DRAFTING NOTE: This section is a part of existing § 51-111.27 and was moved to this chapter.

~~§ 51-111.67:3 51.1-504 . Election of political subdivision to participate; approval by Board ; eligibility of teachers under state group insurance to be covered under another plan .— (a) Any department, division, institution or agency of the Commonwealth and any county, city or town, and any political entity, subdivision, branch or unit of the Commonwealth and any commission or public authority or body corporate created by or under an act of the General Assembly, which has group life insurance with any insurance company or nonprofit association may continue such group life insurance, but shall not, while such group life insurance is in effect, participate in the group insurance otherwise provided for in this article. However, upon discontinuance of such other group life insurance with respect to all of its employees, or to any group or class of its employees, and within the two-year period next succeeding the effective date of the first group insurance authorized by this article, any such department, division, institution or agency of the Commonwealth and any county, city or town, and any political entity, subdivision, branch or unit of the Commonwealth and any commission or public authority or body corporate created by or under an act of the General Assembly may, if seventy-five percent of its employees eligible to participate will become covered on the effective date of coverage, elect to participate in the group insurance authorized under this article, in which event such electing employees thereof or in such group or class, as the case may be, including those employees over age sixty who were covered under such other group life insurance, shall thereafter become eligible to participate in such group insurance. On and after the expiration of the two-year period next succeeding the effective date of the first group insurance authorized by this article and upon discontinuance of such other group life insurance with respect to all of its employees, or to any group or class of its employees, the election of any such department, division, institution or agency of the Commonwealth and any county, city or town, and any political entity, subdivision, branch or unit of the Commonwealth and any commission or public authority or body corporate created by or under an act of the General Assembly to participate in the group insurance authorized by this article shall be subject to the approval of the Board, and such employees thereof or in such group or class, as the case may be, shall become eligible to participate in such group insurance on and after the date of such approval by the Board.~~

~~(b) Notwithstanding any provisions of subsection (a) of this section to the contrary, if the teachers, as defined in subdivision (1) of § 51-111.67:2, employed by any school board are eligible to participate in an employer sponsored group life insurance program with any insurance company or nonprofit organization and no part of the premium therefor is paid from state funds directly or indirectly, then, upon request of such school board, such teachers may be insured effective September 1, 1964, under the group insurance authorized by this article. Such eligible teachers in service with such a school board as of June 30, 1964, shall be automatically insured effective September 1, 1964, provided that any such teacher desiring not to be so insured shall, prior to October 1, 1964, on an appropriate form to be prescribed by the Board, give written notice to his employing office that he desires not to be insured. The provisions of § 51-111.67:6 shall apply to all such eligible teachers entering service with such a school board subsequent to June 30, 1964. Any political subdivision which has group life insurance with any insurance company or nonprofit association may continue the coverage, but shall not participate in this group insurance program while the other group life insurance is in effect. Upon discontinuance of the other group life insurance, the political subdivision may request coverage for eligible employees under this group insurance program. Employees of a political subdivision requesting coverage under this section who have attained seventy years of age on the effective date of coverage may be insured under the group insurance program if they were insured under the program which is being discontinued.~~

DRAFTING NOTE: The provisions of existing subsections (a) and (b) are obsolete except as they relate to political subdivisions. All state agencies and school boards having other life insurance programs have discontinued them and are now covered by the group insurance program. The language has been rewritten to apply to political subdivisions only.

~~§ 51-111.67:4 51.1-505 . Amounts of life and accident insurance for each employee; reduction and termination of insurance.— (a) A. Each employee to whom this article chapter applies shall, subject to the terms and conditions thereof, be eligible to be insured for an amount of group life insurance plus an amount of group accidental death and dismemberment insurance , each~~

amount equal to twice the amount of his annual compensation; provided that (i) where salary. If an employee's annual compensation salary is not an even multiple of \$1,000 such, his annual compensation salary for purposes of this section shall be considered to be the next higher \$1,000; (ii) the. For purposes of this section, the annual compensation salary of a member of the General Assembly shall for purposes of this section be his creditable compensation for his last full calendar year of service or his salary under § 14.1-17.1, whichever is greater; and (iii) annual compensation. The annual salary for each an employee retired for service on an annuity or because of disability on an immediate annuity shall retirement allowance may be determined adjusted by the Board in accordance with the provisions of §§ 51-111.10 (16) and 51-111.10:01 (16) as used to determine such employee's average final compensation Chapter 1 (§ 51.1-100 et seq.) of this title.

With respect to any employee who is reemployed and insured in accordance with the provisions of under this article chapter, the foregoing otherwise applicable amount of group life insurance shall be reduced by the amount of insurance provided by any policy of insurance issued under the conversion privilege of any policy issued pursuant to the provisions of this article chapter.

Subject to the conditions and limitations of the group insurance policy or policies purchased by the Board under this article, the group accidental death and dismemberment insurance shall provide payments as follows:

Loss	Amount Payable
For loss of life	Full amount determined in accordance with the provisions of this section
Loss of one hand or of one foot or loss of sight of one eye	One-half of the amount determined in accordance with the provisions of this section
Loss of two or more such members	Full amount determined in accordance with the provisions of this section.

For any one accident, the aggregate amount of group accidental death and dismemberment insurance that may be paid shall not exceed the maximum amount of group accidental death and dismemberment insurance determined in accordance with the applicable schedule of benefit formula of this section.

(b) The amounts of life and accidental death and dismemberment insurance on an employee in service shall be in the amount set forth in subsection (a) of this section.

(e) B. The amount of life insurance on each an employee who, after June 30, 1982, retires (i) for service on an immediate annuity retirement allowance or who elects to postpone the receipt of his retirement allowance to some date other than such employee's his last day of service shall be in the amount set forth in subsection (a) of this section A, reduced by an amount equal to two percent thereof for each full calendar month following the date the employee is separated from service or (ii) because of. The amount of life insurance on an employee who retires for disability on an immediate annuity retirement allowance shall be in the amount set forth in subsection (a) of this section A on the date the employee last rendered service reduced by an amount equal to two percent thereof for each full calendar month following the date such the employee attains age sixty-five; except if. If the employee by statute or Board regulation has; pursuant to subsection (f) of this section; been construed to be in service to the beginning of the next school year, the reduction; whether for retirement on an annuity for service or because of disability; shall not apply until the beginning of such the next school year. But such The reduction shall not decrease the amount of life insurance on an employee to less than twenty-five percent of the amount of life insurance to which the reduction is applied. For purposes of this subsection, an employee shall be deemed to have "retired" or "retires" retired only if such the employee has five or more years of continuous service as an employee prior to such the date of retirement. This requirement shall not be applicable if the employee is retired for disability or to any employee in service on July 1, 1986, who has attained sixty-nine years of age.

Any employee who was denied membership in the retirement system because of having attained age sixty at the time of being employed or reemployed and who has five or more years

of continuous service immediately prior to separation from service shall retain the life insurance coverage as though he had retired on an immediate retirement allowance.

~~(c)~~ C. The amount of life insurance for an employee who is retired for disability on an immediate ~~annuity retirement allowance~~, who also has attained age fifty-five, and who elects to receive a ~~service retirement allowance as defined set forth in subsection (c) C of § 51-111.63~~ 51.1-160, shall be reduced as set forth in subsection ~~(c)~~ B of this section. ~~Such~~ The reduction shall begin at the end of the first full calendar month following the date the employee ~~makes such election of~~ elects a service retirement allowance.

~~(d)~~ D. All accidental death and dismemberment insurance on an employee shall cease upon the earliest of (i) his separation from service, (ii) his failure to pay, in the manner prescribed by the Board, the contribution required for the first twenty-four months (two months in the case of any employee on leave of absence for military ; ~~naval or air~~ service) of leave without pay, (iii) if the employee has not returned to pay status, the expiration of ~~such~~ twenty-four months (or of ~~such~~ two months) of leave without pay as the case may be, or (iv) his retirement.

~~(e)~~ E. Except in case of retirement as provided in ~~subsection (e) subsections B and C of this section~~, all life insurance on an employee shall cease upon the earliest of (i) his separation from service, or (ii) his failure to pay, in the manner prescribed by the Board, the contribution required for the first twenty-four months (two months in the case of any employee on leave of absence for military ; ~~naval or air~~ service) of leave without pay, or, (iii) if the employee has not returned to pay status, the expiration of such twenty-four months (or of such two months) of leave without pay ; as the case may be, . *Except in the case of retirement, life insurance shall be subject ; in any such case, to a temporary extension of such life insurance for thirty-one days and to the right of the . During this thirty-one day extension, the employee exercisable within such thirty-one days to may convert his life insurance into an individual policy of life insurance (without disability or other supplementary benefits) in any one of the forms, except term insurance, then customarily issued by the insuring company ; in an amount not exceeding . The amount of life insurance which may be converted shall not exceed the amount of his life insurance under such the group insurance policy at the time of cessation thereof, coverage is terminated. The insurance shall be converted to an individual policy (i) without evidence of insurability and , (ii) at the premium applicable to the class of risk to which he belongs , and (iii) to the form and amount of such the individual policy at his then attained age, provided application therefor for the individual policy and payment of the first premium thereon shall be made to the issuing company within such the thirty-one days. The right to convert to an individual policy as provided in § 38.2-3333 shall not apply upon termination of this group policy or elimination of a class of insured employees.*

The amount of life insurance on each insured employee who ~~retired prior to July 1, 1982,~~ retires shall be determined under the provisions of this ~~article chapter~~ as it ~~existed~~ exists on the employee's date of retirement.

~~(f)~~ F Each employee of a state institution of higher education or of a local school board who remains in the service of ~~such institution of higher education or local school board~~ until the completion of the school year and ~~who makes contributions required to provide insurance coverage under this article until service normally will be resumed the beginning of the next school year shall ; for insurance purposes, be deemed to be in service as an employee through the period to which the payments apply ; if during such period such . If the employee is retired for service or disability during this period, contributions made by the employee ; § 51-111.67:5 notwithstanding, shall be accepted and retained as proper.~~

~~(g) Repealed-~~

DRAFTING NOTE: The last paragraph inserted in subsection B is moved from subdivision 5 of § 51-111.67:2. The provision regarding employees who retire prior to 1982 was changed to apply to all employees who retire. The language added at the end of the first paragraph of subsection E is a revision of an enacting clause of the bill that established the group life insurance program.

~~§ 51-111.67:5~~ 51.1-506 . Employee contributions ; payroll deductions; effect of failure to deduct -Each insured employee so insured shall contribute to the cost of ~~such life insurance and accidental death and dismemberment~~ his insurance an amount to be determined ; and ~~within the time specified, by the Board but not to exceed the rate of seventy cents per month for each \$1,000 of such employee's annual compensation, provided that where salary. If the amount of annual compensation salary is not an even multiple of \$1,000, annual compensation for the purposes of this section salary shall be considered to be the next higher \$1,000 ; provided, however, that employees . The employer shall deduct the premium from the salary payable to the insured employee. An employee who is paid on other than a monthly basis shall~~



have an amount deducted at a proportionate rate, adjusted to the nearest cent. All deductions shall be retained by or paid to the State Treasurer to the credit of the Board and shall be available to the Board for the purposes of carrying out the provisions of this chapter. Nothing contained in this section shall prohibit any employer from making the contributions required herein for his employees, in whole or in part.

If the premium is not deducted from the employee's salary and the failure to deduct is not the fault of the employee, the employee shall be insured and the employee shall not be required to pay the amount which should have been deducted.

Employees retired for service or disability shall not be required to contribute to the cost of their life insurance ~~except as otherwise provided in § 51-111.67:4 (f); and further provided that if . If an employee is separated from the service of any state institution of higher education or of any local school board prior to completing a school year , the premiums paid shall be accepted and retained as proper to date of separation. Nothing contained in this section shall be construed to prohibit any employer from making the contributions required herein for his employees, in whole or in part.~~

DRAFTING NOTE: The first paragraph of subsection A and subsection B of existing § 51-111.67:6 are moved into this section.

~~§ 51-111.67:6 51.1-507 . Payroll deductions authorized; notice Notice of desire not to be insured ; effect of failure to deduct; -- A. Notwithstanding any statute, law, regulation or rule presently in force, during any period in which an employed employee is insured under a policy of insurance purchased under the authority of this article, the Comptroller, in the case of all state officers and employees paid by warrants on the State Treasurer, and, in the case of any other state employee, the department, division, institution or agency by which the salary is paid, and the employer in the case of teachers and other employees, shall cause to be deducted from the salary of each employee for each and every payroll period subsequent to the effective date of such insurance, an amount determined by the Board, but not to exceed the rate of seventy cents per month for each \$1,000 of such employee's annual compensation, provided that where the amount of annual compensation is not an even multiple of \$1,000, annual compensation shall be considered to be the next higher \$1,000 ; provided, that an employee who is paid on other than a monthly basis shall have an amount so deducted, determined at a proportionate rate, which rate shall be adjusted to the nearest cent. All amounts so deducted shall be retained in or paid into the treasury of Virginia to the credit of the Board and shall be available to the Board for the purpose of carrying out the provisions of this article. Any policy of insurance purchased under the authority of this article chapter shall provide that all eligible employees eligible under the terms of this article will shall be automatically insured thereunder commencing on the date they first become so eligible . Any employee who notified his employing office prior to June 1, 1962, employer that he desired not to be insured, or any employee of a political subdivision who notified his employing office employer prior to the effective date of coverage that he desired not to be insured, may thereafter become insured only upon presentation at his own expense of evidence of insurability satisfactory to the insuring company.~~

~~B. Notwithstanding the provisions of subsection A hereof, in the case of any employee from whose salary the amounts required to be deducted under subsection A hereof are not, or have not been deducted through no fault of the employee, such employee shall be insured notwithstanding such failure to deduct, and such employee shall not be required to pay any such undeducted amounts, or any amounts in lieu thereof.~~

DRAFTING NOTE: The first paragraph of subsection A and subsection B are moved to proposed § 51.1-506. A portion of the second paragraph of existing subsection A is deleted since the time limitation has expired and the wording is obsolete.

~~§ 51-111.67:9 51.1-508 . Employer contributions.--Employers, under this article other than the Commonwealth, shall pay to the Board acting for the Commonwealth the percentage of the premiums ; or charges ; or portions thereof not paid for by employee contributions. Employees paid from special funds shall have their employer contributions paid from such funds.~~

DRAFTING NOTE: Language revisions only.

~~§ 51-111.67:12 51.1-509 . Keeping records and furnishing information required by Board.--Each employer, whose employees are insured under the provisions of this article chapter , shall keep such records and from time to time shall furnish such information as required by the Board shall require in the discharge of its duties under this article .~~

DRAFTING NOTE: Language revisions only.

~~§ 51-111.67:8 51.1-510 . Insurance exempt from process.--The insurance herein provided for in this chapter, including any optional insurance, and all proceeds therefrom shall be exempt from levy, garnishment , and other legal process.~~

DRAFTING NOTE: A provision regarding optional insurance from existing § 51-111.67:12.1 is added to this section.

~~§ 51-111.67:10 51.1-511 . Persons entitled to payment of insurance on employee's death.—Any amount of group life insurance and group , accidental death , and dismemberment insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim therefor, to the beneficiary or beneficiaries designated by the officer or employee under the provisions of the Virginia Supplemental Retirement System or other retirement system administered by the Board, unless the employee shall have has designated and filed with the Board on a form prepared by the Board, a different beneficiary or beneficiaries of his group life and , accidental death , and dismemberment insurance under the provisions of this article. In the event . If no such beneficiary or beneficiaries have has been so provided for or designated by any the employee, then such the proceeds shall be paid to the person or persons surviving at the date of his death, in the following order of precedence:~~

First, to the ~~widow or widower spouse of such the~~ employee;

Second, if none of the above, to the ~~child or children of such the~~ employee and descendants of deceased children, per stirpes;

Third, if none of the above, to the parents of ~~such the~~ employee ~~or the survivor of them ;~~

Fourth, if none of the above, to the duly appointed executor or administrator of the estate of ~~such the~~ employee;

Fifth, if none of the above, to other next of kin of ~~such the~~ employee entitled under the laws of the domicile of ~~such the~~ employee at the time of his death.

Payment which otherwise would be made to the estate of an employee may be made in accordance with the provisions of § 51-111.58:2 51.1-164 .

DRAFTING NOTE: Language revisions only.

~~§ 51-111.67:11. Board to direct when insurance and contributions effective.—The insurance provided by this article and the withholdings and contributions for that purpose shall become effective when directed by the Board.~~

DRAFTING NOTE: This section is repealed because it is obsolete. The group life insurance program was effective July 1, 1960.

~~§ 51-111.67:12.1 51.1-512 . Optional insurance.—A. The Board is authorized, under the terms and conditions specified in § 51-111.67:1 of this article chapter, to increase the coverage under such the insurance policies to make available to each active insured employee as defined in § 51-111.67:2; optional life insurance and , accidental death , and dismemberment insurance in amounts equal to the amounts provided in § 51-111.67:4 (e) this chapter .~~

B. The optional life ~~insurance and , accidental death , and dismemberment insurance shall be made available to each active insured employee under age seventy and under such conditions as prescribed by the Board shall prescribe but in no event shall such optional . Optional amounts of insurance shall not be made available to any employee retired for service.~~

C. ~~1. All optional insurance on an employee shall cease upon the earliest of (i) the date the employee retires for service, (ii) the occurrence of either of the events specified in § 51-111.67:4 (e) date the employee's basic coverage ceases , or (iii) the end of the date month in which the employee attains age seventy. 2. The optional amount of life insurance in force on an employee who retires because of for disability on an immediate annuity retirement allowance may be continued, subject to payment of any required premium by the employee , during continuance of such disability but not beyond the date such end of the month in which the employee attains age sixty-five.~~

D. ~~The provisions of §§ 51-111.67:5; 51-111.67:6 and 51-111.67:9 notwithstanding: (i) During any period in which an active employee has the optional insurance in force, the full cost thereof shall be withheld from his compensation, (ii) during salary. During any period in which an employee continues optional life insurance after retiring because of for disability on an immediate annuity retirement allowance , the full cost thereof shall be withheld from his annuity payment but not beyond the date on which such employee attains age sixty-five retirement allowance .~~

E. The cost of the optional insurance shall be determined from time to time periodically by the Board on the basis it considers appropriate.

F The amount of optional life insurance and , accidental death , and dismemberment insurance in force on any employee at the date of his death shall be paid as provided in § 51-111.67:10 of this article and the optional insurance herein provided for and all proceeds therefrom shall be exempt from levy, garnishment and other legal process as provided in this chapter .

G. The provisions of § 51-111.67:7 51.1-514 shall not apply to the optional insurance provided under this section . The Board shall determine the form and content of the accounting reports to be made by the insurance company with respect to the optional insurance provided under this section .

DRAFTING NOTE: The last portion of subsection F is moved to proposed § 51.1-510. Other changes are language revisions only.

§ 51-111.67:10-1 51.1-513 . Disability insurance.—The Board is authorized to develop, implement , and administer a disability insurance program. Such The program is to shall be coordinated with the current disability and life insurance provisions of the Virginia Supplemental Retirement System or other retirement system systems administered by the Board. The Board is authorized to contract and purchase such coverage or use other actuarially sound funding as is necessary to effectuate this provision.

DRAFTING NOTE: Language revisions only.

§ 51-111.67:7 51.1-514 . Policies to provide for accounting to Board; special contingency advance premium deposit reserve.—Each policy purchased by the Board pursuant to the provisions of this article shall provide for an accounting to the Board not later than ninety 120 days after the end of each policy year ; which shall set forth, in a form approved by the Board, (1) . The accounting shall include (i) the amounts of premiums actually accrued under the policy during such the policy year, (2) (ii) the total amount of all mortality and other claim charges incurred during such the policy year, and (3) (iii) the amounts of the insurer's expenses and risk charges for such the policy year. Any excess, or portion of such the excess ; of the total of item (1) (i) over the sum of items (2) (ii) and (3) (iii) may, with the approval of the Board, be held by the insurance company issuing the policy as a special contingency in an advance premium deposit reserve to be used by such insurance the company for charges under such the policy only. The policy may provide that such special contingency reserve or any part thereof be held in one or more separate accounts established by the insurance company after adoption of a resolution by its board of directors and certification thereof to the Board. The income, if any, and gains or losses, realized or unrealized, on each such account shall be credited to or charged against the amount allocated to such account in accordance with such policy, without regard to the other income, gains or losses of the insurance company, and the amounts allocated to such accounts and accumulations thereon may be invested and reinvested in any class of loans and investments specified in such policy other than those prohibited by § 38.2-1407. Amounts allocated by the insurance company to such accounts pursuant to this section shall be held by the insurance company subject to the terms of the policy and such insurance company shall not be, or hold itself out to be, a trustee in respect to such amount. The insurance company's liability under such account shall be limited to the amount of funds in such accounts. Such policy may further provide that, to the extent such special contingency reserve is not held in a separate account, it The advance premium deposit reserve shall bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which . The rate shall be approved by the subject to Board approval as being consistent with the rates generally used by such the company for similar funds held under other group life insurance policies. Any portion of such the excess not so held by the insurance company shall be held by the Board to be used for charges under such the policy only. If and when the Board determines that such special contingency the advance premium deposit reserve, together with any portion of such the excess accumulated and held by the Board, has attained an amount estimated by it to make satisfactory provision for adverse fluctuations in future charges under the policy , any further such excess shall inure to the benefit of the Commonwealth and other employers participating in the group insurance program as determined by the Board.

For purposes of this section , the insurance company may combine and consolidate the policy or policies issued by it pursuant to § 51-111.67:1 with such other policy or policies issued by it as may be designated as directed by the Board.

DRAFTING NOTE: Language relating to a "special contingency reserve" is deleted because the provision has never been used and its use is not anticipated. A provision for an advance premium deposit reserve was added. Ninety days is changed to 120 days because this is actual practice.

## CHAPTER 6.

### GOVERNMENT EMPLOYEES DEFERRED COMPENSATION PLAN ACT.

CHAPTER DRAFTING NOTE: The Government Employees Deferred Compensation Plan Act was made into a separate chapter. Definitions of "act" and "investment department" were added. A severability clause, which was not set out in the Code, was repealed because of the general severability clause in Title 1 of the Code.

~~§ 51-111.67:14. Title of article.—This article shall be known as the "Government Employees Deferred Compensation Plan Act," and may be so cited.~~

~~DRAFTING NOTE: This section is being repealed because it is not necessary.~~

~~§ 51-111.67:15 51.1-600 . Definition Definitions .— For the purposes of this article, the term As used in this chapter, unless the context requires a different meaning:~~

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

~~"employee Employee" means any salaried person, including appointed or elected officials, providing services for the Commonwealth, state agencies, counties, municipalities, or other political subdivisions.~~

~~"Investment Department" means the Investment Department of the Virginia Retirement System.~~

~~DRAFTING NOTE: The definitions of "Act" and "Investment Department" were added.~~

~~§ 51-111.67:16 51.1-601 . Contract for deferred compensation.—In accordance with a plan of deferred compensation, the Commonwealth, or any state agency, county, municipality , or other political subdivision may, by contract, agree with any employee to defer ; all or any portion of that employee's otherwise payable compensation and, pursuant to the terms of the plan and in such proportions as may be designated or directed under the plan, place such deferred compensation in investment products selected by the county, municipality , or other political subdivision or, in the case of the Commonwealth and its agencies, the investment products enumerated in § 51-111.67:17 51.1-602 . All investment products shall be offered in compliance with applicable federal and state laws and regulations by persons who are duly authorized by applicable state and federal authorities.~~

~~DRAFTING NOTE: No change in the law.~~

~~§ 51-111.67:17 51.1-602 . Deferred Compensation Plan compensation plan for employees of the Commonwealth.—administered by the Investment Department of the Virginia Supplemental Retirement System .—A. The Investment Department of the Virginia Supplemental Retirement System shall establish and administer a deferred compensation plan for employees of the Commonwealth and its agencies. The Investment Department of the Virginia Supplemental Retirement System may contract with private corporations or institutions subject to the standards set forth in § 51-111.24:2 51.1-116 to provide investment products as well as any other goods and services related to the administration of the deferred compensation plan. The investment products shall be (i) an equity index fund based upon the Standard & Poor's Index of 500 stocks, the Dow Jones Index of 30 industrial stocks or a comparable index; (ii) a fixed income index fund based upon the Shearson Lehman Government/Corporate Bond Index or a comparable index; (iii) an asset allocation index fund based upon the Standard & Poor's Index of 500 stocks, Shearson Lehman Government/Corporate Bond Index , or comparable indices; and or (iv) a money market fund. The Investment Department of the Virginia Supplemental Retirement System shall select the fund managers and any comparable indices in accordance with § 51-111.24:2 51.1-116 . The Virginia Supplemental Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective record keeping and accountings, and asset purchase, control , and safekeeping. In accordance with such plan, and upon contract or agreement with an eligible employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer or officers of the Commonwealth, with such funds being thereafter held and administered in accordance with the plan.~~

~~B. If it deems it advisable, the Investment Department of the Virginia Supplemental Retirement System shall have the power to may create a trust or other special fund for the segregation of the funds or assets resulting from compensation deferred at the request of employees of the Commonwealth or its agencies and for the implementation of such program.~~

~~C. The Department of Accounts shall be responsible for the accounting, reconciliations, and record keeping associated with state employees' enrollment, payments to the plan through payroll deductions , and timely transfer of withheld funds to the trustee designated by the Investment Department of the Virginia Supplemental Retirement System .~~

~~D. The investment products previously selected for the deferred compensation plan by the~~

Deferred Compensation Board shall remain in force until the corporation providing investment services or the Commonwealth terminates the agreement. The Investment Department of the ~~Virginia Supplemental Retirement System~~ shall be the successor in interest to ~~any and~~ all rights of the Deferred Compensation Board under any existing investment agreement.

E. Any employee of the Commonwealth who was a member of the deferred compensation plan on or before July 1, 1987, may elect to participate in the investment products enumerated in subsection A of this section or continue to contribute to the previously selected investment products until such products are terminated by the contractor or the Commonwealth. No further contribution may be made to the previously selected investment products if the eligible employee elects to participate in the funds enumerated in subsection A of this section. Any employee of the Commonwealth who becomes a member of the deferred compensation plan subsequent to July 1, 1987, shall participate in the funds enumerated in subsection A of this section.

F. The Board of Trustees of the ~~Virginia Supplemental Retirement System~~, the employees of the System, and the Investment Advisory Committee of the System shall not be personally liable for any losses suffered by a deferred compensation plan established or administered under the authority of this Act.

DRAFTING NOTE: No change in the law.

~~§ 51-111.67:18~~ 51.1-603 . Local deferred compensation plans.—Any county, municipality, or other political subdivision of the Commonwealth may by ordinance adopt and establish for itself and its employees a deferred compensation plan. Any such deferred compensation plan may also include constitutional officers and their employees. The ordinance adopting or establishing such plan shall create or designate an appropriate board or officer to administer ~~such~~ the plan, and shall confer upon such board or officer the authority to do all things by way of supervision, administration, and implementation of ~~such~~ the plan, including the power to contract with private corporations or institutions for services in connection therewith. The deferral of compensation may be accomplished by payroll deductions ~~made~~ by the appropriate officer of the county, municipality, or other political subdivision.

DRAFTING NOTE: No change in the law.

~~§ 51-111.67:19~~ 51.1-604 . Standards for deferred compensation plans.—No deferred compensation plan shall become effective until the Investment Department of the ~~Virginia Supplemental Retirement System~~, county, municipality, or political subdivision of the Commonwealth is satisfied, by opinion of its respective counsel, such federal agency or agencies as may be deemed necessary, or otherwise, that the compensation deferred thereunder and/or the investment products purchased pursuant to the plan (i) will not be included in the employee's taxable income under federal or state law until it is actually received by ~~such~~ the employee under the terms of the plan; and (ii) that such compensation will nonetheless be deemed compensation at the time of deferral for the purposes of ~~Social Security~~ social security coverage, for the purposes of the ~~Virginia Supplemental Retirement System~~, and for any other retirement, pension, or benefit program established by law.

DRAFTING NOTE: No change in the law.

~~§ 51-111.67:20~~ 51.1-605 . Other retirement, pension, etc., systems not affected; *annual report* .—Any deferred compensation program established by this ~~article~~ chapter, and any plan adopted hereunder, shall exist and serve in addition to any other retirement, pension, or benefit ~~systems~~ system established by the Commonwealth, its agencies, counties, municipalities, or other political subdivisions, and shall not supersede, make inoperative, or reduce any benefits provided by the ~~Virginia Supplemental Retirement System~~ or by any other retirement, pension, or benefit program established by law.

The Investment Department of the ~~Virginia Supplemental Retirement System~~ shall submit an annual report to the Governor and the General Assembly advising them of the condition of the fund and all operational costs associated with the fund.

DRAFTING NOTE: No change in the law.

~~§ 51-111.67:21~~ . If any section, subsection, sentence, part of application of this article be held unconstitutional by a court of last resort, such holding shall not affect any other section, subsection, sentence, part of application which can, in the opinion of the Commission, be given effect without the part so held invalid.

DRAFTING NOTE: This section, which is not set out in the Code, is being repealed because § 1-17.1 provides a general severability clause.

## CHAPTER 7. FEDERAL SOCIAL SECURITY FOR STATE

**AND LOCAL EMPLOYEES.**

**CHAPTER DRAFTING NOTE:** In 1952, the General Assembly enacted this chapter to allow Virginia to enter into an agreement with the federal government so that state and local governmental employees could receive the benefits of the Social Security Act. Although there have been amendments to the chapter since 1952, the basic provisions of the chapter are the same as when it was enacted in 1952. The majority of the changes made by the recodification remove obsolete or outdated provisions. Prior to January 1, 1987, the employer contributions for state and local employees were sent to VSRS, which maintained a contribution fund and sent the contributions to the Internal Revenue Service. Starting January 1, 1987, the employer was required to send contributions directly to the Internal Revenue Service, so provisions relating to the contribution fund maintained by VSRS were eliminated. Political subdivisions were required to extend coverage under the Social Security Act to their employees unless they adopted a resolution by April 1, 1952, notifying VSRS that they did not desire coverage. This outdated provision was removed and no requirement was added to require new political subdivisions to offer coverage to their employees. Provisions regarding payment for back coverage were removed because the privilege of back dating expired January 1, 1953. Federal law has been amended and VSRS is no longer allowed to terminate the plans of political subdivisions for noncompliance, so provisions relating to termination were removed. For more information on the history of this chapter, see Senate Document No. 6, 1951.

**§ 51-111.1. Declaration of policy.** It is hereby declared to be the policy of the General Assembly, ~~subject to the limitations of this chapter, that steps be taken to provide social security protection to employees of the Commonwealth and local governments on the basis now permitted under applicable federal law.~~

**DRAFTING NOTE:** This section is being repealed because it is a declaration of policy and steps have already been taken to provide social security protection to employees.

**§ 51-111.2 51.1-700 . Definitions.—** For the purposes of As used in this chapter , unless the context ~~requires a different meaning~~ :

(a) The term “wages” means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such terms shall not include that part of such remuneration which, even if it were paid for “employment” within the meaning of the Federal Insurance Contributions Act, would not constitute “wages” within the meaning of that act.

(b) The term “employment” means any service performed by an employee in the employ of the Commonwealth, or any political subdivision thereof, for such employer, whether it be regular or temporary, part time or full time, employment, except service which in the absence of an agreement entered into under this chapter would constitute “employment” as defined in Title II of the Social Security Act, or service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, or service of an emergency nature or service which under the Social Security Act may not be included in an agreement by the Commonwealth and the federal agency entered into under this chapter.

(c) The term “employee” includes an officer of the Commonwealth, or of one of its political subdivisions.

(d) The term “teacher” means any person who is regularly employed on a salary basis as a professional or clerical employee of a county, city or other local public school board.

(e) The term “state employee” means any person who is employed in the service of, and whose compensation is payable, in whole or in part, by the, Commonwealth or any department, institution or agency thereof, and shall include trial justices, the Auditor of Public Accounts, the Director of the Division of Legislative Services, the Clerk of the House of Delegates, and the Clerk of the Senate, but not (1) any officer elected by popular vote, and (2) a county or city treasurer, commissioner of the revenue, Commonwealth’s attorney, clerk of court, sheriff, sergeant or constable, and a deputy or employee of any such officer.

(f) The term “local employee” means any employee of a political subdivision, and shall include a “special employee” which means a county or city treasurer, commissioner of the revenue, Commonwealth’s attorney, clerk of court, sheriff, sergeant or constable and a deputy or employee of any such officer.

(g) The term “state agency” means the Board of Trustees of the Virginia Supplemental Retirement System.



(h) The term "federal agency" means in each case such federal officer, department, or agency as is charged on behalf of the federal government, by or under the applicable federal law, with the particular federal functions referred to in this chapter in connection with such term.

(i) The term "political subdivision" includes an instrumentality of the Commonwealth, or one or more of its political subdivisions, or of the Commonwealth and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the Commonwealth or a political subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the Commonwealth or a political subdivision. For the purposes of this chapter, the term "political subdivision" shall also include the Pamunkey, Chickahominy and Mattaponi Indian Tribes.

(j) The term "applicable federal law" refers to such provisions of federal law, including federal regulations and requirements issued pursuant thereto as provide for extending the benefits of Title II of the Social Security Act to employees of states and their political subdivisions.

(k) The term "Social Security Act" means the act of Congress approved August 14, 1935, Chapter 531, 49 Statutes 620, officially cited as the "Social Security Act," as such act has been and may from time to time be amended.

(l) The term "Federal Insurance Contributions Act" means subchapter A of Chapter 9 of the Internal Revenue Code of 1939 and subchapters A and B of Chapter 21 of the Federal Internal Revenue Code of 1954, as such codes have been and may from time to time be amended; and the term "employee tax" means the tax imposed by § 1400 of such Code of 1939 and § 3101 of such Code of 1954.

"Applicable federal law" refers to provisions of federal law, including federal regulations and requirements issued pursuant thereto, that provide for extending the benefits of the Social Security Act to employees of states and their political subdivisions.

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

"Employee tax" means the tax imposed by § 1400 of the 1939 Internal Revenue Code and § 3101 of the Internal Revenue Codes of 1954 and 1986.

"Employment" means employment as defined in the Social Security Act.

"Federal agency" means the federal officer, department, or agency charged on behalf of the federal government with the particular federal functions referred to in this chapter in connection with such term.

"Federal Insurance Contributions Act" means subchapter A of Chapter 9 of the Internal Revenue Code of 1939 and subchapters A and B of Chapter 21 of the Internal Revenue Codes of 1954 and 1986 as amended.

"Local employee" means any officer or employee of a political subdivision and includes "special employees," which means a county or city treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of court, sheriff, and a deputy or employee of any such officer.

"Political subdivision" includes an instrumentality of the Commonwealth or one or more of its political subdivisions, or of the Commonwealth and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the Commonwealth or a political subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the Commonwealth or a political subdivision. "Political subdivision" includes Indian tribes.

"Social Security Act" means the act of Congress approved August 14, 1935, Chapter 531, 49 Statutes 620, officially cited as the "Social Security Act," as such act has been and may be amended.

"State employee" means any person who is employed in the service of the Commonwealth but shall not include any member of the General Assembly or local employee.

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

"Wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, except that part of such remuneration which, even if it were paid for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

DRAFTING NOTE: The definitions were placed in alphabetical order. The definition of "employee" was eliminated and incorporated under the definitions of "local employee" and "state employee." References to the Internal Revenue Code of 1986 were added in the definition of "Federal Insurance Contributions Act." The definition of "employment" was revised to reference the Social Security Act. Rather than specifying which Indian tribes were considered political subdivisions, it was provided that any Indian tribe can be a political subdivision. The words "sergeant or constable" were removed from the definitions of "local employee" and "state employee" because these positions no longer exist. The term "state employee" was amended to include persons who are employed in the service of the Commonwealth but may not be compensated by the Commonwealth so that extension agents who are employed by Virginia Polytechnic Institute and State University but compensated by the federal government will be included. The existing definition of "state employee" excludes "any officer elected by popular vote." This was changed to "any member of the General Assembly" so that members of the General Assembly will be excluded, but the Governor, Lieutenant Governor, and Attorney General will be included in the definition. Language stating that the term "state employee" includes trial justices, the Auditor of Public Accounts, the Director of the Division of Legislative Services, the Clerk of the House of Delegates and the Clerk of the Senate was eliminated because it is clear that persons in those positions are state employees. The term "state agency" was replaced with Board. Other changes were language revisions only.

~~§ 51-111.3 51.1-701 . Rules and regulations.—The state agency Board shall make and publish such promulgate rules and regulations ; not inconsistent with the provisions of this chapter, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under for the administration of this chapter.~~

DRAFTING NOTE: This section contains editorial changes only.

~~§ 51-111.3 51.1-702 . Federal-state agreement ; interstate agreements .— (a) The state agency Board , with the approval of the Governor, is hereby authorized to enter on behalf of the Commonwealth into an agreement with the federal agency ; consistent with the terms and provisions of this chapter, for the purpose of extending to extend the benefits of the Federal Old Age and Survivors Insurance System Social Security Act to employees of the Commonwealth or and any political subdivision thereof, with respect to services specified in such the agreement, which constitute " employment " as defined in § 51-111.2. Such . The agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency Board and federal agency shall agree upon, but, except as may be otherwise required by or under applicable federal law as to the services to be covered, such the agreement shall provide in effect that:~~

~~(1) 1. Benefits will shall be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act.~~

~~(2) 2. The Commonwealth will shall pay to the federal agency, at such the time or times as may be prescribed by the applicable federal law or by regulation of the federal agency , contributions with respect to wages ; as defined in § 51-111.2, equal to the sum of the taxes which would be imposed by the "Rate of Tax" sections of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act Act .~~

~~(3) Such agreement shall be effective with respect to services performed after a date specified therein but shall in no event cover any such services performed prior to January 1, 1961.~~

~~(4) 3. All services which constitute employment as defined in § 51-111.2 and are performed in the employ of the Commonwealth by state employees shall be covered by the agreement.~~

~~(5) 4. All services which (i) constitute employment as defined in § 51-111.2 , and (ii) are performed in the employ of a political subdivision, and (iii) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under § 51-111.5 Board , shall be covered by the agreement ; provided that services . Services rendered in the employ of a county, city or other school board shall be covered by the agreement on the effective date specified therein not prior to January 1, 1951 ; provided further that such services in the employ of a political subdivision, except such services in the employ of a county, city or~~

other school board, shall not be covered if the governing body of the political subdivision by recorded vote of a majority of the members adopts by April 1, 1952, a resolution notifying the state agency that it does not desire coverage for its employees; provided further that such resolution may be rescinded subsequently by a recorded vote of a majority of such governing body, whereupon the provisions of this chapter shall apply to services performed in the employ of the political subdivision .

(6) 5. A political subdivision which is operating under a retirement system which it finances may ; as provided in (5) above, continue the same or may apply for coverage of its employees under the agreement, or both.

(b) § 51.1-703. *Interstate agreements.*— Any instrumentality jointly created by this Commonwealth and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (1) (i) to enter into an agreement with the federal agency whereby the benefits of the Federal Old Age and Survivors Insurance System Social Security Act shall be extended to employees of such instrumentality, (2) (ii) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under subsection A of § 51-111.4 (a) 51.1-704 if they were covered by an agreement made pursuant to subsection (a) of this section § 51.1-702 , and (3) (iii) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (a) § 51.1-702 and other provisions of this chapter.

(c) ~~Repealed.~~

DRAFTING NOTE: Existing § 51-111.3 is divided into two sections, one dealing with the federal-state agreement and one dealing with interstate agreements. Existing subdivision 3 is stricken because it is no longer necessary to describe when the agreement shall be effective. Language in existing subdivision 5 that specifies how a locality may opt out of social security coverage was removed, as the deadline for opting out was April 1, 1952.

§ 51-111.3:1. *Extension of Federal Old Age and Survivors Insurance System to certain persons upon amendment of Social Security Act.*— Effective on the day that the Social Security Act is amended so as to permit coverage of state employees who were in positions covered by a retirement system on the date that the agreement with the federal agency was made applicable, the state agency, with the approval of the Governor, is authorized to enter, on behalf of the Commonwealth, into a modification of the original agreement with the federal agency for the purpose of extending the benefits of the Federal Old Age and Survivors Insurance System to members of the State Police Officers Retirement System and to members of the Virginia Supplemental Retirement System and other state employees as were excluded from such coverage under the original agreement. Such coverage may be made retroactive to the earliest effective date permitted by such amendment to the Social Security Act, but in no event shall it cover any services performed prior to January 1, 1951.

DRAFTING NOTE: This section was added in 1952 to allow the benefits of the Federal Old Age and Survivors Insurance System to be extended to certain state employees who were not covered by the original legislation. This has been done and the section is no longer necessary so it is being repealed.

§ 51-111.4 51.1-704 . *Contributions by state employees.*— (a) A. Every employee of the Commonwealth whose services are covered by an agreement entered into under § 51-111.3 51.1-702 shall be required to pay for the period of such coverage, into the contribution fund established by § 51-111.7, contributions, with respect to wages, as defined in § 51-111.2, equal to the amount of tax taxes which would be imposed by the "Rate of Tax" section of Part I sections of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act Act . Such liability shall arise in consideration of the employee's retention in the service, or his entry upon such service, after the enactment of this chapter.

(b) B. The contribution imposed required by this section shall be collected by the Commonwealth by deducting the amount of the contribution from wages as and when paid , but failure to make such deduction shall not relieve the employee from liability for such contribution.

(c) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

DRAFTING NOTE: Language in existing subsection (a) was rewritten for clarity and the reference to the contribution fund was stricken since VSRS no longer administers a contribution

fund. The last sentence of existing subsection (a) was stricken because all employees are now required to contribute. Existing subsection (c) was stricken because VSRS no longer makes adjustments since the contributions no longer go to VSRS.

~~§ 51-111.5~~ 51.1-705 . Plans for coverage of employees of political subdivisions.— (a) Each A. Any political subdivision of the Commonwealth ; except for those which do not desire coverage and notify the state agency in accordance with § 51-111.3 (a) (5) which desires coverage for its employees , shall submit for approval by the state agency a plan for extending the benefits of Title II of the Social Security Act ; in conformity with applicable federal law; to its employees of any such political subdivision. In the event any county, city or other school board or any other political subdivision fails to submit such plan to the state agency on or before April 1, 1952, the state agency shall make and adopt a plan consistent with the provisions of this chapter applicable to such county, city or other school board or other political subdivision. Each plan or any amendment thereof submitted to the state agency shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the state agency to the Board for approval. The Board shall approve plans or amendments to plans that conform to Board regulations , except that no plan or amendment shall be approved or adopted unless it .

(1) It is in conformity 1. Conforms with the requirements of the applicable federal law and with the agreement entered into under § 51-111.3 51.1-702 .

(2) It provides 2. Provides that all services which constitute employment as defined in § 51-111.2 and are performed in the employ of the political subdivision by any employees thereof ; shall be covered by the plan.

(3) It specifies 3. Specifies the source or sources from which the funds necessary to make the payments required by subdivision (1) of subsection (e) and by subsection (d) C of this section are expected to be derived and contains reasonable assurance that such sources the source will be adequate for such purpose.

(4) It provides 4. Provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan.

(5) It provides 5. Provides that the political subdivision will shall make such reports, in such form and containing such information, as the state agency Board may from time to time require ; and comply with such provisions as the state agency Board or the federal agency may from time to time find necessary to assure the correctness and verification of such reports.

(6) It authorizes the state agency to terminate the plan in its entirety if it finds that there has been a failure to comply substantially with any provisions contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and be consistent with applicable federal law.

(b) B. The state agency Board shall not finally refuse to approve a plan submitted under subsection (a), and shall not terminate an approved plan, A without reasonable notice and opportunity for hearing to each political-subdivision affected thereby.

(e) (1) C. Each political subdivision which has a plan approved under this section shall pay into the contribution fund in accordance with state or federal requirements to the federal agency, at such time or times as may be required by applicable federal law, contributions with respect to wages, equal to the taxes which would be imposed by the "Rate of Tax" sections of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that Act .

(2) D. Every political subdivision required to make payments under subdivision (1) of this subsection C is authorized ; in consideration of the employee's retention in, or entry upon, employment after enactment of this chapter, to impose upon its employees, as to services which are covered by an approved plan, a contribution with respect to wages, as defined in § 51-111.2, not exceeding the amount of tax which would be imposed by the "Rate of Tax" section of subchapter A sections of the Federal Insurance Contribution Contributions Act if such services constituted employment within the meaning of that act, Act and to deduct the amount of such contribution from the wages as and when paid . Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of such political subdivision under, subdivision (1) of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

(d) Any political subdivision which fails to make the payments due under subdivision (1) of subsection (e) or which fails to file wage reports as required by the federal agency shall be subject to interest charges at the same rate as assessed by the federal agency. The state agency may waive all or a part of such interest charge if good cause is shown and is accepted by the federal agency. Such delinquent amounts and interest charges may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency and after notice to the delinquent, be deducted from any nonencumbered moneys distributable to such subdivision by any department or agency of the Commonwealth.

DRAFTING NOTE: Existing subsection (a) was rewritten because any political subdivision that wished to opt out of the Social Security Act should have already done so since the deadline was April 1, 1952. The subsection was also revised to permit but not require political subdivisions to submit plans to the Board. This is current practice. Existing subdivision (a)(6) was stricken because federal law no longer allows the Board to terminate a plan. Existing subdivision (c)(1) was rewritten to require contributions to be submitted to the federal agency rather than the state contribution fund. The last sentence of existing subdivision (c)(2) and subsection (d) were stricken because they address the contribution fund.

§ ~~51-111.6~~ 51.1-706 Source of contributions.— (a) A. In the case of state employees, the employer contributions by the Commonwealth shall be wholly paid by the Commonwealth and shall begin as of January 1, 1951, or the beginning date of current employment whichever is the latest. State employees who are covered as of such latest date shall pay the employee contribution for coverage back to that date. Each reporting agency shall file such reports and pay into the contribution fund in accordance with state or federal requirements. Any agency which fails to file such reports or make the payments due under this subsection and subsection (b) of § 51-111.4 shall be subject to interest charges at the same rate as assessed by the federal agency. The state agency may waive all or a part of such interest charge if good cause is shown and is accepted by the federal agency. Should any agency fail to file such reports or make such payments, the Department of Accounts shall deduct the amounts due from the account of the reporting agency and transfer such funds to the contribution fund established under § 51-111.7 upon request of the state agency.

(b) In the case of local employees and teachers, contributions by the employing political subdivision shall be paid as of the time the agreement herein provided for specifies. Such agreement shall provide that the employees and teachers shall pay for back contributions; provided that the employer may by recorded resolution pay the back contributions for its employees and teachers or advance such sums as may be required to provide back contributions subject to repayment by the employees and teachers concerned.

B. In the case of teachers, the Commonwealth shall reimburse the employing political subdivision for the cost of the employer contribution to the extent specified in the general appropriations act.

(c) C. In the case of special employees, the Commonwealth shall reimburse the employing political subdivision for the cost of the employer contribution to the extent the Commonwealth participates in paying the salary of the employee who is covered or to the extent it shares or would share in the excess receipts from such office. The special employee shall pay the employee contribution for back coverage; provided that the employer may by recorded resolution pay the back contributions for its employees and teachers or advance such sums as may be required to provide back contributions subject to repayment by the employees and teachers concerned.

DRAFTING NOTE: Portions of existing subsections (a), (b), and (c) dealing with employee contributions for back coverage were stricken because they are outdated. Other provisions of existing subsection (a) were stricken because they deal with the contribution fund.

§ 51-111.7. Contribution fund.—A. There is hereby established a special fund to be known as the contribution fund. Such fund shall consist of and there shall be deposited in such fund: (i) all contributions collected hereunder; (ii) all moneys appropriated thereto; (iii) all moneys paid to the Commonwealth pursuant to any agreement entered into under this chapter; (iv) any property or securities and earnings thereof acquired through the use of moneys belonging to the fund and (v) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided. Subject to the provisions of this chapter, the state agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof consistent with the provisions of this chapter.

~~B. The contribution fund shall be established and held separate and apart from any other funds or moneys of the Commonwealth and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such fund shall only be made for (i) payment of amounts required to be paid to the federal agency pursuant to an agreement entered into hereunder; and (ii) payment of refunds provided for herein.~~

~~C. Interest earned upon any moneys in the fund and interest collected under this chapter, if not appropriated for payment of advancements and administration expenses incurred under this chapter, shall be paid into the retirement allowance account.~~

~~D. From the contribution fund the custodian of the fund shall pay to the federal agency such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under § 51-111.3 and applicable federal law.~~

~~E. The State Treasurer shall be ex officio treasurer and custodian of the contribution fund and shall administer the fund in accordance with the provisions of this chapter and the directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.~~

DRAFTING NOTE: This section established the contribution fund and provided for its administration. All employee and employer contributions were to be deposited into the fund which was in the custody of the VSRS Board of Trustees. The Social Security Act has been amended to require contributions to be deposited directly to the Internal Revenue Service, so the Board no longer collects the contributions. Therefore, this section is repealed.

## CHAPTER 8.

### LOCAL RETIREMENT SYSTEMS.

CHAPTER DRAFTING NOTE: Chapter 8 authorizes counties, cities, and towns to establish retirement systems independent of or supplemental to the Virginia Retirement System. The existing chapter consists of four articles. Articles 1 and 2 contained general provisions authorizing terms and conditions for the local systems. Existing Article 3 applies to counties having county executive or county manager forms of government. Article 4 authorizes a police retirement system for Fairfax County.

The revised chapter contains three articles. Articles 1 and 2 retain most of the original terms and conditions for establishing local retirement systems, with minor language revisions. Article 3 was repealed in its entirety because it only applied to Henrico, Prince William, and Albemarle Counties, and each of these counties currently belong to the Virginia Supplemental Retirement System. Since membership in the Virginia Supplemental Retirement System is irrevocable, the article is obsolete. Article 4 applied to any county having the urban county executive form of government, and §§ 51-127.10 through 51-127.30 applied to the police retirement system for Fairfax County. Since these provisions affected only Fairfax County, the Code Commission decided to reenact the original act, Chapter 303 of the Acts of Assembly, as amended, instead of setting each of these sections out in the Code. None of the provisions of Article 4 were repealed. The recodified title will contain a new Article 3 which contains three new sections. Proposed § 51.1-821 indicates that prior §§ 51-127.10 through 51-127.30 are continued in effect by incorporation into a new section 51.1-805(2) by reference to the original act, Chapter 303 of the Acts of Assembly, as amended. Proposed § 51.1-822 clarifies that the governing body of any county with an urban county executive form of government may amend the provisions of the retirement plan by local ordinance. Proposed § 51.1-823 sets out the appeal process from decisions of the retirement board of any county with an urban county executive form of government.

#### Article 1.

#### General Provisions.

§ 51.1-800. *Counties, cities, and certain towns to establish local systems or participate in Virginia Retirement System.*—A. Every county and city, and every town having a population of 5,000 or more, shall provide a retirement system for those officers and employees listed in subsection B either (i) by establishing and maintaining a local retirement system which provides a service retirement allowance to each employee who retires at age sixty-five or older which equals or exceeds two-thirds of the service retirement allowance to which the employee would have been entitled had the allowance been computed under the provisions of the Virginia Retirement System or (ii) by participating directly in the Virginia Retirement System. The Board of Trustees of the Virginia Retirement System shall determine whether a local retirement system satisfies the criterion of (i) above, taking into account the difference between the employee contribution rates under the local retirement system and the Virginia Retirement System.



**B. The following persons shall be covered by a retirement system as provided in subsection A:**

**1. Officers and employees who are regularly employed full time on a salaried basis, whose tenure is not restricted to temporary or provisional employment.**

**2. Officers and employees who are regularly employed fulltime on a salaried basis, whose tenure is not restricted to temporary or provisional employment by an organization other than a public school board that functions solely within the boundaries of a county, city, or town, unless the cost of the organization's operation is borne by (i) users of services, (ii) more than one county, city, or town, or (iii) an entity other than a county, city, or town.**

**3. Clerks of the circuit court and deputies or employees of such officers.**

**C. Nothing in this chapter shall be construed to prohibit a county, city, or town from participating in the Virginia Retirement System and establishing a local retirement system. If a locality participates in the Virginia Retirement System and establishes a local retirement system, pursuant to § 51.1-801, providing supplemental benefits to the state system, the local system shall not be required to satisfy the criteria established in subdivision A(i) of this section.**

**D. A county, city, or town shall not be required to provide retirement benefits to an employee who enters into an agreement with the local government for inclusion in a deferred compensation plan when the agreement specifically prohibits inclusion in any other retirement system established by the county, city, or town.**

**DRAFTING NOTE:** Language in existing § 51-111.31 which requires localities to establish retirement systems providing benefits equivalent to at least 2/3 of VSRS benefits was added to this section as new language, and subdivision B defines the persons which must be covered by the retirement system. Subsection C was added to this section at the request of the City of Fairfax to clarify that a locality may participate in VRS and also establish a system to supplement VRS benefits. Subsection D was added as new language at the request of the City of Portsmouth to cover certain professional employees of local governments who participate in the International City Manager's Association's portable deferred compensation plan instead of local retirement systems.

~~§ 51-112~~ **51.1-801 . Counties, cities , and towns generally.—The governing body of each any county, city and , or town may, by ordinance adopted by a recorded vote of a majority of the members elected or of a majority elected to each branch, if there is more than one branch , establish a retirement system of pensions, including death benefits, covering . The retirement system may cover injured ; or retired or superannuated officers and employees of such the county, city , or town ; and . Benefits may be payable to such the officers and employees ; or their dependents, estates , or designated beneficiaries ; and . The retirement system may provide for accrued vested or contractual rights thereunder. # The local governing body may , through self-funding or the purchase of insurance and annuities, or a combination thereof, provide for such pensions retirement allowances , including death benefits, and for group life insurance covering the coverage for officers and employees of such the county, city , or town, and for group accident and sickness insurance covering the coverage for officers and employees of such the county, city , or town and their dependents. Such The governing body may by such ordinance establish a fund for the payment of such pensions retirement allowances , including death benefits, and for the payment of such insurance and annuity premiums and charges by making appropriations out of by appropriating funds from the treasury of the county, city , or town or by requiring employee contributions ; payable from time to time through payroll deductions or otherwise , or by both, or by any other mode not prohibited by law.**

~~The assets of a retirement system created under this section or by any charter granted to a city or town are hereby exempted from any state, county, or municipal tax. The assets of such a retirement system and retirement allowances and other benefits accrued or accruing to any person under the provisions of this section or under the provisions of any charter granted to any city or town shall not be subject to execution, attachment, garnishment or any other process whatsoever, nor shall any assignment thereof be enforceable in any court.~~

~~For the purpose purposes of this section , the term “ employees “ may include teachers or other employees of county, city , and town school boards.~~

~~If any county, city, or town participates in the Virginia Retirement System and also establishes a local retirement system providing supplemental benefits to the employees covered under the Virginia Retirement System, the local system shall not be required to satisfy the retirement age and service criteria established in § 51.1-800 A(i).~~

~~DRAFTING NOTE:~~ Language requiring a majority of each branch of the governing body, if

there is more than one branch, was deleted because there are no governing bodies with more than one branch, although this is authorized by § 15.1-805. The term "system of pensions" is replaced with "retirement system." The second paragraph was stricken and added as proposed § 51.1-802 since it relates to exemption of retirement assets from taxation. Two localities, the Cities of Fairfax and Alexandria belong to VSRS; however, Fairfax has an independent system to supplement VSRS benefits. Alexandria's general employees belong to VSRS; however, police officers and firefighters are covered under an independent retirement system. The new language at the end of this section was added at Fairfax City's request to clarify that systems supplemental to VRS do not have to meet the requirements of other independent systems.

§ 51.1-802. *Assets of retirement systems; exemption from taxation; execution and assignment.*—The assets of any retirement system established pursuant to this article, or by a city or town charter, are hereby exempted from any state, county, or municipal tax. The assets of a retirement system, retirement allowances, and other benefits accruing to any person under the provisions of this chapter, or under any city or town charter, shall not be subject to execution, attachment, garnishment, or any other process, nor shall any assignment thereof be enforceable in any court.

DRAFTING NOTE: This language is moved from the second paragraph of existing § 51-112.

~~§ 51-112.1~~ 51.1-803 . Investments of pension retirement systems.—If the governing body of any county, city, or town establishes a retirement system of pensions pursuant to the provisions of § 51-112 this article, the investment of any funds that may from time to time be allocated, segregated, or otherwise designated for such systems of pensions the retirement system, which are on hand at any time and are not necessary for immediate payment of pensions or benefits, shall be invested in legal investments for fiduciaries under the provisions of subdivisions (1), (2), (3), (4), (5), and (24) of § 26-40 or in conformity with the standards and requirements set forth in § 51-111.24:2 51.1-116 .

DRAFTING NOTE: No change in law. Reference to existing § 51-112 has been deleted, and reference to existing § 51-111.24:2 has been changed to proposed § 51.1-116.

~~§ 51-113~~ 51.1-804 . In certain cities.—Chapter 251 of the Acts of 1942, approved March 18, 1942, as amended by Chapter 81 of the Acts of 1946, approved March 2, 1946, codified as § 3035r of Michie Code 1942, relating to pensions, etc., for officers and employees of any city having a population of not less than 100,000 nor more than 170,000, and of any city adjoining a county having a density of population of more than 1,000 per square mile, is continued in effect.

DRAFTING NOTE: This section continues in effect the retirement systems for the Cities of Norfolk and Portsmouth adopted in 1942. Norfolk and Portsmouth are two of 13 localities that presently operate a local retirement system independent of VSRS.

§ 51-114 51.1-805 . In certain counties.—The following laws are continued in effect:

(1) Chapter 224 of the Acts of 1936, approved March 23, 1936, providing for a system of pensions and group insurance for injured, retired and superannuated employees in any county adjoining a city in this Commonwealth having more than 180,000 inhabitants.

(2) 1. Chapter 111 of the Acts of 1942, approved March 6, 1942, codified as § 2733a of Michie Code 1942, as amended by Chapter 48 of the Acts of 1947, approved January 30, 1947, and as amended by Chapter 212 of the Acts of 1948, approved March 12, 1948, as amended by Chapter 555 of the Acts of 1950, as amended by Chapter 272 of the Acts of 1975, and as amended by Chapter 88 of the Acts of 1980, authorizing a retirement system for the employees of Arlington County.

(3) (~~Recodified as §§ 51-127-10 through 51-127-30.~~) 2. Chapter 303 of the Acts of 1944, as amended, authorizing a police retirement system for any county having the urban county executive form of government, and previously recodified as Article 4 of Title 51, §§ 51-127.10 through 51-127.30.

(4) 3. Chapter 161 of the Acts of 1946, approved March 11, 1946, as amended by Chapter 184 of the Acts of 1956, and as amended by Chapter 268 of the Acts of 1958, providing for police and firemen's pensions and benefits in counties having a population in excess of 1,000 per square mile.

(5) Chapter 282 of the Acts of 1946, approved March 26, 1946, as amended by Chapter 21 of the Acts of 1947, approved January 29, 1947, providing for police and firemen's pensions and benefits in counties having a population in excess of 35,000 and adjoining two cities within the Commonwealth each having a population in excess of 50,000. 4. Chapter 282 of the Acts of 1946, as amended, authorizing police and firemen's pensions in Norfolk County was repealed by Chapter 296 of the Acts of 1950.

~~(6)~~ 5. Chapter 278 of the Acts of 1946, approved March 26, 1946, as amended by Chapter 184 of the Acts of 1956, and as amended by Chapter 267 of the Acts of 1958, providing for employee's employees' pension and benefits in counties having a population in excess of 1,000 a per square mile.

~~(7)~~ 6. Chapter 4 of the Acts of 1947, approved January 21, 1947, as amended by Chapter 490 of the Acts of 1950, providing for a system of pensions, etc., for the officers and employees of any county adjoining a county having a population of more than 1,000 a per square mile.

Chapter 45 of the Acts of 1948, as amended by Chapter 492 of the Acts of 1950, authorizing the establishment of a retirement and pension plan for the employees of any county adjoining a county having a population of more than 1,000 per square mile, is hereby incorporated in this section by this reference.

The following amendments to Acts of Assembly continued in effect by this section are incorporated in this Code by this reference:

~~Subsection (2).~~

~~Chapter 555 of the Acts of 1950;~~

~~Chapter 272 of the Acts of 1975;~~

~~Chapter 88 of the Acts of 1980.~~

~~Subsection (4).~~

~~Chapter 184 of the Acts of 1956;~~

~~Chapter 268 of the Acts of 1958.~~

~~Subsection (5).~~

~~Repealed by Acts 1950, c. 206.~~

~~Subsection (6).~~

~~Chapter 184 of the Acts of 1956;~~

~~Chapter 267 of the Acts of 1958.~~

~~Subsection (7).~~

~~Chapter 400 of the Acts of 1950.~~

DRAFTING NOTE: This section authorizes certain counties to establish local retirement systems. Prior to 1960, all counties had to obtain this authority by special legislation; however, in 1960, § 51-112 was amended generally to apply to counties. This section continues the retirement systems for Arlington and Fairfax. Henrico County joined VSRS in 1959; therefore, Chapter 224 of Acts of the 1936 is stricken. The cross-references in proposed subdivision (2) to existing §§ 51-127.10 through 51-127.30 apply to Fairfax County and were set out as Article 4 in this chapter. The Code Commission decided to continue these provisions in effect by referring to Chapter 303 of the Acts of Assembly of 1944, as amended, instead of codifying the sections because they apply only to Fairfax County. The reference in existing subdivision (5) is to Norfolk County, and that retirement system was repealed in 1950. The amendments to some of the Acts of Assembly appearing were stricken at the end of the section and moved next to the applicable act for easier reference.

§ 51-114.1. Withholding contributions from salaries paid by Commonwealth.—In any case where the salary or a portion thereof of any officer or employee of any county or city is paid by the Commonwealth, it shall be the duty of the Compensation Board when requested by such county or city to withhold from such salary the employee contribution required of officers and employees of the county or city having a retirement system therefor.

The officer in the county or city having such a retirement plan who administers the same shall certify to the Board the percentage or amount of compensation to be withheld as above provided. The Board shall not withhold any compensation as above provided in the case of any officer or employee who rejects membership in any such retirement plan.

The Board shall at such times as the chairman deems proper pay to the treasurer of the county or city having such retirement plan the amount so withheld.

DRAFTING NOTE: This section is repealed because the Compensation Board no longer directly pays the salaries of constitutional officers, and instead, reimburses localities for their salaries. Prior to 1976, the Compensation Board paid salaries of constitutional officers directly (Chapter 674, 1976 Acts).

~~§ 51-114.2~~ 51.1-806 . Reimbursement by Commonwealth for portion of employer contribution on account of certain officers and employees.—Any county or city which has established prior to January 1, 1959, and is operating a local retirement system ; which does not participate in the Virginia Supplemental Retirement System under Article 4 (§ 51-111.31 et seq.) of Chapter 3.2 of Title 51, and which defines as "compensation" the full compensation payable or fees earnable by its county and city treasurer, attorney for the Commonwealth, commissioner of the revenue, clerk of court, sheriff, sergeant, and a deputy or employee of any such officer ; may be reimbursed for a portion of the employer contribution on account of paid on behalf of any such officer, deputy , or employee as provided in this section; provided that . In such cases, the political subdivision shall, at least once in every two years such political subdivision submits biennially, submit to the Compensation Board information required by the Board's actuary of the Board for computing, at the expense of the employing political subdivision, the employer normal contribution rate that would be applicable to such political subdivision if all such officers, deputies , or employees thereof were members of the Virginia Supplemental Retirement System ; . The Retirement Board shall compute the employer contribution rate on the assumption that no service prior to the computation date was creditable and that no assets were allocable to such members ; and such . The political subdivision shall be reimbursed by the Compensation Board on the basis on which the Commonwealth pays the salaries of such officer, deputy , or employee or shares , or would share , in the excess fees from the office.

DRAFTING NOTE: Language revisions only. VSRS uses state employer contribution rate and does not compute the employer contribution rate for each locality.

#### Article 2.

#### Members of Police Departments.

~~§ 51-115~~ 51.1-807 . Policemen's Police officers' pension and retirement boards.—Any county, city , or town in this Commonwealth ; having a police department with full or part-time paid members, shall have authority to create and may establish, in the manner hereinafter provided, a board to be known as the "Policemen's Pension and Retirement Board" of such county, city or town, and any such "police officers' pension and retirement board." The board ; when so created, shall be a body corporate and shall consist of five members ; one of whom . One member shall be the treasurer of the county, city , or town ; and who shall also be the treasurer of the board. Two of such members shall be elected by the majority vote of the members of such the police department, one for a term of four years and one for a term of two years, and all successors in office of the one elected for two years ; shall be elected for terms of four years. And two of the two members of such board shall be appointed by the governing body of the county, city or town, as the case may be, for terms of four years.

When any such board shall be so created and constituted is established , it shall, at its first meeting ; and annually thereafter, elect one of the members as president and one as secretary ; and . The board may also elect a vice-president vice president .

DRAFTING NOTE: Language revisions only.

~~§ 51-116~~ 51.1-808 . Powers, authority , and duties of board.—The general powers, authority , and duties of any such board police officers' pension and retirement board shall be as follows:

(a) 1. To make and adopt bylaws ; rules and regulations lawful to be made, which the board may deem deems necessary for the proper to conduct of its affairs;

(b) 2. To provide for such appropriate clerical, legal, medical , and other services as the board may deem necessary or proper, and provide for the payment of suitable and to pay reasonable compensation for such services;

(c) 3. To provide for, and require ; deductions from the salaries of active and paid members of such the police department and cause the same to be paid into the treasury of the board, and to pay certain percentages of salaries, as hereinafter specified, for the purpose of raising into the treasury of the board to raise funds for the necessary purposes of the board in the administration of its affairs ; ; and

(d) Draw 4. To draw warrants on the treasurer of the board, for the payment of pensions and , benefits hereunder , and administrative costs and expenses of administration, which

warrants Warrants shall be signed in the name of the board and countersigned by its president.  
DRAFTING NOTE: Language revisions only.

§ ~~51-117~~ 51.1-809 . Treasurer of board.—The treasurer of ~~such the~~ board shall be the custodian of ~~all the~~ board's funds and securities of the board, and shall give bond, payable to the board, in such amount and with such surety as may be required by the board as the board requires , conditioned for the faithful performance of his duties and the proper accounting for all funds and securities coming into his hands, ~~the~~ which the treasurer receives. The cost of the bond ~~to~~ shall be paid out of the board funds of the board ; and he . The treasurer shall disburse the board funds of the board on warrants drawn on him by the board, and signed and countersigned as hereinabove provided for by the board's president .

DRAFTING NOTE: Language revisions only.

§ ~~51-118~~ 51.1-810 . Time credited to service record.—The time of service of any member of ~~such a~~ police department ; ~~having a police pension and retirement board~~ prior to June 22, 1940 ; shall be computed to the credit of ~~his the~~ member's service record ; ~~but the amount of pension to be paid such member under the provisions of this chapter ; however, the pension amount payable shall be determined by that proportion of the amounts provided for by this chapter, which the time of service of such member serving under the provisions of this chapter, serving in the police department at the time of his retirement, or disability, bears to twenty years.~~

DRAFTING NOTE: Language revisions only.

§ ~~51-119~~ Pension payable to widow.—Where any such policeman loses his life while in the discharge of his official duties, ~~there shall be paid to his widow, if he leaves a widow, until her death, or remarriage, a pension of not less than one half of such policeman's salary at the time of his death.~~

DRAFTING NOTE: The provisions in this section have been moved to proposed § 51.1-815.

§ ~~51-120~~ 51.1-811 . Eligibility for retirement; ~~pension~~ retirement allowance .—Any member of ~~such a~~ police department ; ~~upon having who has~~ completed twenty years of service in the department and ~~having~~ attained the age of fifty years ; ~~shall be eligible to retirement may retire and to receive the pension and benefits hereinafter specified provided in this section . Any such~~ Upon retirement, a member ; ~~from and after the time he shall so retire, shall receive a pension hereunder retirement allowance, payable to the member for life , equal to fifty per centum percent of his the member's annual salary, computed on the basis of the last three years of his service ; and an additional amount equal to two per centum percent of the member's salary of such member for each year of service after he has attained the age of fifty years, and after he has served in the department for twenty years of service in the department .~~

DRAFTING NOTE: Language revisions only. These provisions are inconsistent with the practice in most localities. The formulas are not 50% of annual salary but generally based on a percentage of the members highest 3 years of salary tied to number of years of creditable service. The method for computing the allowance varies among the 13 localities. The Code Commission observed that there is no mechanism for checking whether local systems, in practice, conform to the requirements of the Code or whether the benefits are equivalent to 2/3 of VSRS benefits. The Commission is recommending a study resolution to examine the feasibility of some oversight of local systems.

§ ~~51-121~~ 51.1-812 . Disability from natural causes not originating in performance of official duties.—Any ~~such~~ member disabled on account of a natural cause or causes not originating in the performance of ~~his the~~ member's official duties ; shall receive a minimum sum equal to ten ~~per centum~~ percent of ~~his the~~ member's salary, during such disability, if he becomes a ~~the~~ member's disability beneficiary occurs at any time during ~~his the~~ first five years of service ; and an additional amount equal to two ~~per centum~~ ~~on~~ percent [ of ] ~~his the~~ member's salary for each additional year of service ~~over exceeding~~ five years ; ~~but at~~ . At no time shall ~~such the~~ disability payment amount exceed one half of ~~his the~~ member's salary.

DRAFTING NOTE: Language revisions only. The Code Commission observed that most localities have a 5 year vesting requirement and do not pay any benefits if the nonwork-related disability occurs before completing five years of service. This section should be included within the scope of study by the General Assembly.

§ ~~51-122~~ 51.1-813 . Disability resulting from activities in discharge of official duties.—If any member of a police department of a county, city , or town, other than the City of Richmond, which has a pension plan ~~shall become~~ becomes disabled as a result of ~~his~~ activities in the discharge of ~~his the~~ member's official duties, ~~he the~~ member shall receive , as pension and benefits during such disability, the sum of not less than sixty-six and two-thirds percent of ~~his the~~ member's salary until such time as he shall have become eligible to retire under age and service retirement ; ~~had he remained uninjured and continued in the performance of his duties,~~

and he . The member shall then be retired on the age and service pension as provided for in § 51-120 51.1-811 . If any member of the City of Richmond Police Department shall become disabled as a result of his activities in the discharge of his official duties, he shall receive an annual retirement allowance payable monthly during his lifetime and continued disability computed in accordance with § 51-111.57 (d), concerning computation of disability retirement under the Virginia Supplemental Retirement Act.

The death of, or any condition or impairment of health of, any member of a county, city or town police department, or of a sheriff or deputy sheriff, caused by hypertension or heart disease resulting in total or partial disability shall be presumed to have been suffered in the line of duty unless the contrary be shown by a preponderance of competent evidence; provided that prior to making any claim based upon such presumption for retirement, sickness or other benefits on account of such death or total or partial disability, such member, sheriff, or deputy sheriff, shall have been found free from hypertension or heart disease, as the case may be, by a physical examination which Any member of a county, city, or town police department or any sheriff or deputy sheriff who dies or is totally or partially disabled as a result of hypertension or heart disease, shall be presumed to have died or become disabled in the line of duty, unless the contrary is shown by a preponderance of competent evidence. To be eligible, or for a beneficiary to be eligible, for retirement, sickness, or other benefit payments based upon such presumption, a member, sheriff, or deputy sheriff shall, before the claim was filed, have had a physical examination and been found free from hypertension or heart disease. The physical examination shall include have included such appropriate laboratory and other diagnostic studies as such the governing body shall prescribe prescribed and which shall have been conducted by physicians whose qualifications shall have been prescribed by such the governing body ; and provided, further, that any such member, sheriff, or deputy sheriff, or, in the case of his death, any person entitled to make a claim for such benefits, claiming that his death or disability was suffered in the line of duty shall, if requested by such governing body or its authorized representative submit himself, in the case of a claim for disability benefits, to physical examination by any physician designated by such governing body which . Any member, sheriff, or deputy sheriff filing a claim for such benefits based upon disability incurred in the line of duty shall, if requested by the governing body, submit to a physical examination by any physician designated by the governing body. The examination may include such tests or studies as may reasonably be prescribed by the designated physician so designated or, in the case of a claim for death benefits, submit the body of the deceased to a include a postmortem examination to be performed by the medical examiner for the county, city , or town appointed under § 32.1-282. Such The member ; sheriff, or deputy sheriff, or claimant shall have the right to have present at such examination, at his own expense, any qualified physician he may designate.

DRAFTING NOTE: Language revisions only. The first paragraph was divided into two paragraphs. The provisions for the City of Richmond were stricken. Richmond's disability formula for police injured in the line of duty equals 2/3 of compensation at the time of the disability with an offset for workers' compensation received and is not computed according to the VSRS disability formula. The language regarding the presumption of work-related disability resulting from hypertension or heart attack was rewritten for clarity.

§ 51-122.1 51.1-814 . Employing such presumption in determining eligibility for benefits.—The presumption provided for established in § 51-122 51.1-813 , subject to the provisions of such section, shall be employed in determining eligibility for death, retirement, sickness , and other benefits provided pursuant to any other provision of law or the charter of any city or town, or otherwise for any member of a county, city , or town police department ; or sheriff or deputy sheriff ; or city sergeant or deputy city sergeant of the City of Richmond who die dies or become becomes totally or partially disabled.

DRAFTING NOTE: Language revisions only. The reference to the office of city sergeant or deputy city sergeant for the City of Richmond is stricken because the offices were abolished by Chapter 155 of the 1971 Acts of Assembly.

§ 51-122.2 51.1-815 . Counties, cities , and towns authorized to provide relief to widows surviving spouse and children.—Any county, city , or town ; may provide for the relief of any children and widow surviving spouse of any law-enforcement officer, sheriff , or deputy sheriff ; or city sergeant or deputy city sergeant of the City of Richmond, who dies while in the service of the county, city , or town. If any policeman loses his life while in the discharge of official duties, there shall be paid to the surviving spouse until death, or remarriage, a pension of not less than one-half of the policeman's salary at the time of death. Such The relief of any children and widow of any law-enforcement officer, sheriff, or deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond, provided shall be exclusive of and without regard to, any payment out of the general fund of the state treasury pursuant to § 15.1-136.1 et seq.

DRAFTING NOTE: Language revisions only. Reference to city sergeant or deputy city sergeant of the City of Richmond is stricken because these offices were abolished by Chapter



155 of the 1971 Acts of Assembly and the sheriff assumed their duties. Language existing in § 51-115 was added to this section.

~~§ 51-122.3~~ **51.1-816** . Reduction of pension and benefits where income earned during disability retirement.—If any person is entitled to and receives ~~pensions and benefits~~ a *disability pension or benefit* under this article and subsequently becomes employed, whether ~~full-time~~ *full time* or ~~part-time~~ *part time* , the pensions and benefits received shall be reduced by the amount of income received which exceeds the difference between the benefits received under this section and the amount of pay to which ~~he~~ *the member* would have been entitled had ~~his~~ *the member's* employment progressed in the same rank and grade with credit for the level of seniority ~~he~~ *the member* would have attained had ~~he~~ *the member* not been disabled. ~~Such a~~ *The* reduction in ~~benefits~~ shall continue until ~~the time he becomes~~ *the member would have been* eligible for normal retirement , ~~based on age and service~~ , had ~~he~~ *the member* remained uninjured and ~~continued his employment~~ *employed* . For the purposes of this section, "income" means gross income received less deductions for social security taxes only.

Any person receiving pensions or benefits under the provisions of this section shall upon request, on or before May 1 of each year, provide a copy of all W-2 forms showing income received, or a statement under oath as to whether ~~he~~ *the member* has received compensation for work performed in the previous calendar year, to the governing body of the jurisdiction ~~which is the source of this providing this pension ; or to that body's designee~~ . Refusal to provide such documents shall be grounds for termination of benefits under this section ; until such documents are produced. Production of the documents shall be required ~~only~~ until ~~such time as the person shall be~~ *would have been* eligible for normal retirement ; had ~~he~~ *the member* remained uninjured.

Nothing contained ~~herein~~ *in this section* shall limit or restrict the right of any person to receive workers' compensation benefits under Title 65.1 ; as amended .

DRAFTING NOTE: Language revisions only.

~~§ 51-123~~ . Salary deductions paid into treasury of board.—For the purpose of raising funds for the payment of such pensions and benefits, and the costs and expenses of administering the affairs of the board, there shall be levied ~~semiannually~~, and deducted from the salaries of such policemen, three per centum of the amounts of their salaries, and all such amounts so levied and deducted shall be paid into the treasury of the board.

DRAFTING NOTE: Repealed.

~~§ 51-124~~ **51.1-817** . ~~When salary~~ Salary deductions payable to estate or ~~returnable~~ *refunded* .—~~Should any such policeman die while in active service, leaving~~ *If any police officer dies while in active service and leaves no dependents, his* the member's salary deductions shall be payable to ~~his~~ *the member's* estate. ~~Should any such policeman be separated~~ *If any police officer separates* from the service before becoming eligible for a pension, seventy-five per centum percent of salary deductions shall be ~~returnable~~ *refunded* to ~~him~~ *the member*

DRAFTING NOTE: Language revisions only.

~~§ 51-125~~ **51.1-818** . Funds for payment of pensions and benefits.—Any and all cash assets and funds ~~on hand at any time~~, not necessary for immediate payment of pensions or benefits ~~hereunder~~, shall be invested in securities that are legal investments under the laws of the Commonwealth for public sinking funds. Any ~~and all~~ funds raised by any ~~policemen's~~ *police officers'* pension and retirement board ~~created under this chapter~~, for the payment of pensions and benefits ; shall be paid over to the treasurer of such board and deposited by ~~him~~ *who shall deposit and pay the funds as provided in this section* to the credit of the board ; ~~and paid out by him as hereinbefore provided~~ .

DRAFTING NOTE: Language revisions only.

~~§ 51-126~~ **51.1-819** . Adoption of article *optional* by counties, cities , and towns ; *appeal* .—Any county, city , or town in this Commonwealth ; having a police department ~~whose members are paid full or part-time salaries~~ ; may ~~come under~~ *adopt* the provisions of this article and ~~have such~~ *establish* a ~~policemen's~~ *police officers'* pension and retirement board ; if ~~and when~~ the governing body of the county, city , or town ; ~~shall so order~~ *adopts* a resolution approved by a majority of all the members thereof, by a recorded yea and nay vote.

*Upon adoption of a resolution and establishment of the police officers' pension and retirement board, the board shall be vested with all the powers, authority, and duties established under this article.*

*A member shall be entitled to an appeal of right to the circuit court of the county or city which has jurisdiction of the board from any action on any matter in which the board has*

*discretionary power.*

DRAFTING NOTE: This section combines existing §§ 51-126 and 51-126.1. Language revisions only

~~§ 51-126.1. Organization of board; powers, etc.; appeal.—Upon the adoption of such resolution, a policemen's pension and retirement board may be constituted and organized as hereinbefore provided for, and when so constituted and organized, shall be vested with all the powers and authority, and charged with all the duties hereinbefore prescribed; and an appeal of right shall lie from the action of such board on any matter in which the board is given discretionary power, to the circuit court of the county or corporation or hustings court of the city within whose jurisdiction such board may be.~~

DRAFTING NOTE: Existing § 51-126.1 was combined into proposed § 51.1-819 with minor language revisions for clarity.

~~§ 51-127. Certain counties, cities and towns to which article does not apply.—The provisions of this article shall not apply to or affect any city having a population of not less than 100,000 nor more than 170,000 according to the last preceding United States census. Nor shall such provisions apply to any county, city or town in this Commonwealth having in operation on June 22, 1940, any system of pensions or retirement benefits for members of its police department, unless the governing bodies of such city, county or town shall elect to come under the provisions of this article.~~

DRAFTING NOTE: This exclusion applies to the cities of Norfolk, Richmond, and Portsmouth. Since the provisions of this article are optional, this exclusion is unnecessary and is stricken.

~~§ 51-127.9 51.1-820 . Policemen's Police officers' pensions and retirements.—All of the provisions of Article 2 (§ 51-115 et seq.), Chapter 4 ; Title 51, this article, including all authorizations and all requirements, shall apply to all counties having the county manager plan of government, except Arlington County.~~

DRAFTING NOTE: No change in the law. Arlington is currently the only county operating under county manager plan of government. This section is moved into Article 2 relating to police pension systems from Article 3, existing § 51-127.9, relating to pension plans for officers and employees of counties having a county executive or county manager form of government.

~~§ 51-127.1. Retirement and pension plan for officers and employees authorized; how established.—The governing body of any county having the county executive or county manager form of organization and government under Chapter 13 (§ 15.1-582 et seq.) of Title 15.1 is hereby authorized and empowered to create and establish a retirement and pension plan for the officers and employees of such county. The retirement and pension plan may be established by the said governing body upon the adoption of a resolution which, among other things, shall provide therein the effective date of the plan, the rules or conditions for participation therein, and the basis of calculation of amounts of benefits which may become payable thereunder.~~

DRAFTING NOTE: Existing Article 3, §§ 51-127.10 through 51-127.30, in its entirety is stricken. It applies to counties having the county executive or county manager plan of government and affects Henrico, Prince William, and Albemarle Counties. Prince William joined VSRS in 1962; Albemarle joined in 1958; and Henrico in 1959. This article is obsolete because these localities are members of VSRS and that membership is irrevocable under current § 51-111.38. If any of these counties want to establish a system supplemental to VSRS, they would still have this authority under proposed § 51.1-801.

~~§ 51-127.2. Membership in plan; contributions by members and by county.—The resolution may provide that membership in the retirement plan shall be compulsory for such officers and employees of such county as shall be so designated in the resolution; that each employee who is a member of the retirement plan shall contribute to the retirement fund by payroll deduction a percentage of the compensation paid by such county for services rendered, the amount of such percentage deduction to be stated in the resolution; that the county may contribute and pay the additional costs of the plan, taking into account the actuarial cost of the benefits provided by the plan and such operational cost as may be necessary. Such county may contribute the entire cost of benefits based on any prior continuous service rendered to the county by any person employed by the county as of the date of adoption of said plan on such basis as may be designated by such resolution.~~

DRAFTING NOTE: Repealed.

~~§ 51-127.3. Appropriations and tax levies.—Immediately upon the retirement plan being established and put into operation, the governing body of such county may make the necessary appropriation for the cost of maintaining the plan on a sound and solvent actuarial basis, including such operational cost as may be necessary, and may thereafter and at such times as is necessary appropriate such sums of money as are adequate and necessary to keep the funds of~~

said retirement plan on a sound and solvent actuarial basis, based on the cost of the benefits as provided in the plan, and if necessary, levy taxes therefor as a special and necessary purpose in addition to any tax allowed by any special statute. Such appropriations and the levying of taxes, if necessary for the purposes herein set forth, are hereby declared to be for necessary expenses of such county and are, in all respects, authorized and approved.

DRAFTING NOTE: Repealed.

§ 51-127.4. Administration of plan; pension committee.—The resolution may provide that the general administration and responsibility for the operation of the retirement plan and for making effective the provisions of same, including the payment of all benefits to participating employees and their beneficiaries, be vested in a pension committee may delegate to the pension committee such powers and duties as may be deemed necessary to carry out the intent and purpose for which said retirement plan is established.

DRAFTING NOTE: Repealed.

§ 51-127.5. Assets of retirement fund may be held in trust.—The governing body of such county may in said resolution provide for all assets of the retirement fund to be held in a trust forming a part of the retirement plan and may appoint a trustee and enter into an appropriate agreement with said trustee for the purpose of its administering the assets of the retirement fund in accordance with the terms of the plan.

DRAFTING NOTE: Repealed.

§ 51-127.6. Amendment, suspension or revocation of plan and trust.—The governing body of such county may reserve the right to amend, suspend or revoke the retirement plan and trust at any time, but any amendment, suspension or revocation shall not have the effect of diverting the trust fund to purposes other than the exclusive benefit of the participating employees or their beneficiaries until all liability for accrued benefits payable under the terms of the plan shall have been fully satisfied.

DRAFTING NOTE: Repealed.

§ 51-127.7. (Effective August 1, 1980) Fund and benefits not assignable or subject to process; exemption of assets from taxation.—The retirement fund or other benefits mentioned in this article shall not be assignable either in law or equity or be subject to execution, levy, sale, attachment, garnishment, or other legal process. The assets of any retirement fund mentioned in this article shall be exempt from any state or municipal tax.

DRAFTING NOTE: Repealed.

§ 51-127.8. Contracts with insurance companies and others.—The governing body of such county may provide for the payment of benefits as set forth in the plan by contracting with any insurance company, or may contract with any person, firm or corporation for the performance of any service in connection with the establishment of said fund, or for the investment, care or administration of said fund, or for any other service relating thereto.

DRAFTING NOTE: Repealed.

§ 51-127.10. Policemen's pension and retirement board created; members; terms; vacancies; compensation; meetings; officers; conflict of interest prohibited.—The governing body of any county in this Commonwealth having the urban county executive form of government authorized under § 15-1728 et seq. is empowered and authorized to create and establish as hereinafter provided a board to be known as the "policemen's pension and retirement board" of the county, hereinafter referred to as the "board." The board when so created shall be a body corporate and shall consist of five members, one of whom shall be the Director of Finance of the county, who shall also be the treasurer of the board, two of whom shall be elected by the majority vote of the members of the police department, one for a term of four years and one for a term of two years, their successors to be elected for terms of four years each, and two of whom shall be appointed by the governing body of the county for terms of four years each, their successors to be appointed for four-year terms of four vacancy occurs in the office of a member of the policemen's pension and retirement board of this system, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

The two members of the "policemen's pension and retirement board" appointed by the Board of County Supervisors may receive compensation at such rate as the Board of County Supervisors may from time to time approve.

When any such board is so created and constituted, it shall at its first meeting and annually thereafter elect one member as president and one as secretary, and it may elect one as vice-president.

Except as otherwise provided in this article, no member or employee of the policemen's

pension and retirement board shall have any direct or indirect interest in the gains or profits of any investment made by the board. No member or employee of the board shall, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the board.

~~DRAFTING NOTE: Article 4, consisting of existing sections 51-127.10 through 51-127.30, applied to counties having the urban county executive form of government and affected only Fairfax County. This article was not published in the Code until 1981 when an amendment to Chapter 303 of the Acts of Assembly of 1944 changed the special act to general law by referring to the "urban county executive form of government." The 1981 amendment also authorized the local governing body to amend the retirement plan by local ordinance, instead of requiring action by the General Assembly. From 1944 to 1981, this article was referenced in § 51-114(3) and incorporated into the Code by reference. The Code Commission decided to incorporate §§ 51-127.10 through 51-127.30 into proposed § 51.1-805(2) by referring to the original acts, Chapter 303 of the Acts of Assembly of 1944, as amended, instead of setting these sections out since this article only applies to Fairfax County. No section of Chapter 303 of the Acts of 1944 is repealed. At the request of Fairfax, two sections of the Act are set out as proposed §§ 51.1-822 and 51.1-823.~~

~~51-127.11. Powers and duties of board.—The general powers, authority and duties of any such policemen's pension and retirement board shall be as follows:~~

~~(1) To adopt bylaws, rules and regulations lawful to be made which it deems necessary for the proper conduct of its affairs;~~

~~(2) To conduct hearings, make investigations and determine the amount of awards or pensions to be paid any policeman, or his dependents;~~

~~(3) To provide for such clerical, legal, medical, investment counsel and other services as it deems necessary or proper, and provide for the payment of suitable compensation for such services;~~

~~(4) To provide for and require deductions from the salaries of active and paid members of the police department, and to cause the amounts deducted to be paid into its treasury as hereinafter specified for its use in the administration of its affairs;~~

~~(5) To draw warrants, signed in its name and countersigned by its president, on its treasurer for the payment of pensions and benefits hereunder and of costs and expenses of administration;~~

~~(6) To determine who shall be members of the retirement system.~~

~~Upon receiving a member's request for disability benefits, the board shall require such member to submit from a physician of the member's choice a written report of his findings and recommendations. The board shall then select a physician of its choice and require the member to submit to medical examination. In event there is no clear preponderance of medical evidence from the above two physicians, then a third physician will be selected by the other two physicians who will likewise examine the member and report in writing his findings and recommendations. A waiver of examinations as required by this section may be made by either the board or the member for justifiable causes but in no event will any member be granted disability benefits without submitting to at least one medical examination. Failure by a member to submit to medical examination as required by this section or § 51-127.20, may result in the member's denial, loss or reduction of disability benefits.~~

~~DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.~~

~~§ 51-127.12. Amendment, suspension, or revocation of retirement plan and trust.—The governing body of the county may by ordinance reserve the right to amend, suspend, or revoke the retirement plan and trust at any time, so long as such action is consistent with subsection (b) of § 51-111.31; but any amendment, suspension, or revocation shall not have the effect of diverting the trust fund to purposes other than the exclusive benefit of the participating employees or their beneficiaries until all liability for accrued benefits payable under the terms of the plan shall have been fully satisfied.~~

~~DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.~~

~~§ 51-127.13. Treasurer of board as custodian of funds and securities; bond; disbursements.—The Treasurer of the board shall be the custodian of all of its funds and securities and may~~

designate, upon the direction and approval of the board, a fiduciary agent. The Treasurer shall give bond, in such amount and with such surety as the board requires, conditioned for the faithful performance of his duties and the proper accounting for all funds and securities coming into his hands. He shall disburse the funds on warrants drawn by the board, signed and countersigned as provided herein.

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

§ 51-127.14. Time of service credited; amount of pension.—The time of service of any member of the police department, prior to the passage of this article, shall be placed to his credit on his service record, but the amount of pension to be paid him under the provisions of this article shall be that proportion of the amounts provided for by this article which the time of his service under the provisions of this article at the time of his retirement or disability bears to twenty-five years.

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

§ 51-127.15. Entitlement of widow and children of nonretired member.—In case of the death of any member of the police department before retirement or while receiving a service connected disability allowance leaving a widow or a child or children under eighteen years of age, the widow shall be entitled to receive relief from the pension fund in an amount not exceeding \$200 a month and each child under the age of eighteen years shall be entitled to receive relief from the pension fund in an amount not exceeding \$100 a to \$400 per month; provided that any child under the age of twenty-three years who is a full-time student in an accredited college or secondary school shall be entitled to receive such relief. Relief granted a widow hereunder shall cease upon her remarriage and relief granted a child hereunder shall cease upon said child's marriage or said child becoming self-supporting, whichever event shall first occur. No combination of the aforesaid amounts of relief shall be paid to or on behalf of the widow and/or children of a member policeman in an amount exceeding \$500 a month. In the event such member's death is caused by being killed while in the performance of official duties, the surviving spouse may elect to receive relief from the fund in the amount of sixty-six and two-thirds per centum of the member's current salary in lieu of the above described benefit. Such election, if approved by the board, shall become irrevocable upon commencement of payments and shall likewise cease upon the surviving spouse's remarrying. In the event the surviving spouse of a member does remarry while electing this benefit, the children of such member shall receive relief from the fund as specified above.

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

§ 51-127.16. Entitlement of surviving spouse of retired member.—In the case of the death of any retired member on service pension leaving a surviving spouse, the surviving spouse shall be entitled to receive relief from the pension fund in an amount not exceeding \$200 per month; and relief granted a surviving spouse shall cease upon his or her remarriage.

DRAFTING NOTE: No section is repealed in Article. This section is continued as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

§ 51-127.17. Eligibility for retirement benefits; maximum amount of pension; retirement after twenty-five years' service.—A police officer shall become a member of the policemen's retirement system upon the first day he becomes a full or part-time employee, provided the board first determines that it desires to receive a part-time employee into the system. A member shall receive service credit for military leave provided he returns to full-time employment within ninety days of discharge and such discharge is other than dishonorable. A member shall receive service credit while on service connected total or partial disability as defined in § 51-127.20. A member shall not receive service credit while on nonservice connected total or partial disability, as defined in § 51-127.20. A member shall receive service credit for prior employment as a police officer with the county provided he shall return his contributions previously paid plus interest at the yearly rates earned by the system during the period the member's contributions had been withdrawn.

The board may, in its discretion, accept a return of a member's contribution on an installment basis on terms and conditions set by the board. Each member may be allowed credit for accrued sick leave upon making application for retirement under this section or § 51-127.18:1 at the rate of one month for each 172 hours of accrued sick leave. In determining benefits, the board shall grant same in the same manner as if the member had been employed during that period of time.

A member who has attained the compulsory retirement age of sixty and has twenty-five years of service credit shall be retired forthwith by the board; provided, however, that upon approval of the board, members employed prior to the effective date of this article who have not attained twenty-five years of service credit may continue in service until they attain twenty-five years of service credit. Any member who has twenty-five years of service credit prior to attaining the compulsory retirement age of sixty years may retire then or thereafter until his sixtieth birthdate upon written notification to the board, setting forth at what time the retirement is to become effective; provided, that such effective date shall be after his last day of service; but shall not be more than ninety days subsequent to giving such notice. Any member eligible for retirement under this paragraph with twenty-five years of service credit shall receive sixty per centum of his average annual salary. The average annual salary is to be determined by taking the sum of the salary received during the last three years of active service and dividing said sum by three. In the event a member has more than twenty-five years of service credit he shall receive an additional two per centum per year of his average annual salary for each year of service in excess of twenty-five years but in no event shall his total compensation exceed sixty-six and two-thirds per centum of his average annual salary.

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.18. Same; same; retirement after twenty years' service.—Any member of the police department who has completed twenty years of service in the department as a police officer of the county shall be eligible to retirement and to receive the pension and benefits herein specified : Any member, from and after the time he so retires, shall receive a pension hereunder not to exceed fifty per centum of his annual salary computed on the basis of the average of his highest three years salary, plus two per centum per year for each year of service after twenty years, but not to exceed sixty per centum of said annual salary in any such case.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.18:1. Same; same; early retirement.—A member on active duty who has attained twenty years of service credit in the department as a police officer of the county shall be eligible for early retirement and shall receive a pension hereunder at fifty per centum of his average annual salary. The average annual salary is to be determined by taking the sum of the salary received during the last three years of active service and dividing said sum by three. In the event a member has more than twenty years of service credit he shall receive an additional two per centum per year of his average annual salary for each year of service after twenty years, but in no event shall his total compensation exceed sixty-six and two-thirds per centum of his average annual salary in any such case.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.19. Entitlement of member disabled from nonofficial causes.—Any member disabled on account of any natural cause or causes not originating in the performance of his official duties who becomes a disability beneficiary at any time during his first five years of service shall be entitled to receive a sum not exceeding ten per centum of his salary during the disability and an additional amount not exceeding two per centum of his salary for each additional year of service over five years, but at no time shall the amount received exceed one-half of his salary.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.20. Entitlement of member disabled in discharge of official duties.—If any member in the discharge of his official duties becomes totally disabled as a result of an accident or personal injury, he shall receive as pension and benefits, during the continued existence of such total disability or until such time as he would have first become eligible for retirement pursuant to § 51-127.17 of this article, a sum equal to sixty-six and two-thirds per centum of the salary he would have received had he remained uninjured and continued in the performance of his duties. Upon first becoming eligible for retirement as provided in § 51-127.17, he shall be retired pursuant to the provisions therein contained. However, should any member be receiving such a service connected disability allowance and die before having twenty-five years of service credit his dependents shall receive the benefits as provided in § 51-127.15 of this article. The amount of compensation awarded under the Virginia Workers' Compensation Act to such member shall be deducted from such retirement allowance. When the time has expired for payments under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.), such member shall receive the full~~



amount of disability per centum granted.

Any condition or impairment of health of any such member caused by hypertension or heart disease resulting in total disability shall be presumed to have been suffered in the discharge of his official duties unless the contrary be shown by competent evidence; provided that prior to making any claim based upon such presumption for pension and benefits under the provisions of this section on account of such total or partial disability, such member shall have been found free from cardiovascular disease by a physical examination which shall include such appropriate laboratory and other diagnostic studies as the board may prescribe and which shall have been conducted by physicians whose qualifications shall have been prescribed by the board; and provided further, that any such member claiming that his disability was suffered in the discharge of his official duties shall, if requested by the board submit himself to physical examination by any physician designated by the board which examination may include such tests or studies as may reasonably be prescribed by the physician so designated. Such member shall have the right to have present at such examination, at his own expense, any qualified physician he may designate.

If any member becomes totally disabled, but not as a result of his activities in the performance of his official duties, he shall receive a nonservice connected disability income equal to the same income he would have received as retirement income computed in accordance with § 51-127.18; provided he meets the service credit requirements thereof. Should the member not meet these service credit requirements, he shall receive as disability income in an amount equal to the greater of (1) ten per centum of his average annual salary as defined in § 51-127.17 or (2) two and one-half per centum of his average annual salary as defined in § 51-127.17 multiplied by his total years of service credit at the time the disability occurs. In the event of death of any member receiving nonservice connected disability benefits, his dependents shall not be eligible for benefits under § 51-127.15 of this article.

If any member becomes partially disabled in the manner as mentioned in the preceding paragraphs, he shall not be eligible for pension and benefits but will remain in the service in a position which he is capable of performing. If the chief law-enforcement officer determines there are insufficient positions for partially disabled members, they shall then receive pension and benefits as specified in the preceding paragraphs.

Should an accident or personal injury causing total disability be the result of the member's own gross and willful negligence, wanton neglect of his duties and responsibilities, drunkenness or illicit use of narcotics, such disability shall be deemed to be nonservice connected disability and the benefits determined pursuant to the next preceding section.

For the purposes of § 51-127.17 and this section, total disability shall be defined as the inability of the member reasonably to perform his duties as a law-enforcement officer. Partial disability shall be defined as the ability of the member to perform some part of the duties of law-enforcement officer such as in desk or administrative duties. Members granted pension and benefits for partial disability shall be subject to recall to service by the retirement board when positions they are capable of performing are available as determined by the chief law-enforcement officer. The board may determine, upon receiving supporting medical data from any two physicians referred to in § 51-127.11, that the totally disabled member has sufficiently recovered to perform a part or all of his duties of a law-enforcement officer, or to engage in other gainful employment in which he might reasonably be expected to be engaged in light of his education, training or experience. To the extent that such member has sufficiently recovered but is unable to be medically certified to return to full-time active duty as a law-enforcement officer, the board may determine the degree of partial disability then still existing and reduce the disability benefits accordingly. The determination of partial disability shall be based upon the medical record and ability of the member to seek gainful employment in light of his education, training and experience. The board is authorized to enter into contracts or agreements for the rehabilitation of disabled members and to pay reasonable costs thereof.

Once each year during the first five years following initial disability and once every three-year period thereafter, the board shall require the member to undergo medical examinations by the same three physicians, if available, designated pursuant to § 51-127.11, who each shall independently examine the member and submit, in writing, to the board, his findings and recommendations. Should any such physician be unavailable, a successor shall be designated in a like manner as originally provided in § 51-127.11. In the event a member fails to submit to these medical examinations, his benefits shall be discontinued until he submits himself for the examinations, and should his refusal continue for one year all rights to disability benefits under this act shall terminate. Whenever the board ascertains that any beneficiary of a disability retirement allowance is, prior to his normal retirement date, engaged in a gainful occupation or work paying more than the difference between his disability allowance and his average salary,

the board may reduce such retirement allowance to an amount which together with the amount earned by him, equals the amount of his average salary.

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.21. Disposition of deductions upon death while in active service leaving no dependents or upon separation from service.— In the event of the death of any member, active or retired, the difference between the total contributions made hereunder by such member and any benefit payments received by him, his surviving spouse or dependents, shall be payable to his estate or designated beneficiary. Any member, who shall have been separated from the service and whose employment shall have been terminated otherwise than by death or retirement, shall, on application made within two years from the date of such separation, or if separated prior to January 1, 1951, on application made within four years, be refunded all of his accumulated contributions; provided, however, that if such member has received payments or benefits under this system, the amount of such payments or benefits shall be deducted from the amount to be refunded; provided, further, that should any retired member be receiving benefits hereunder at the time of his death then and in that event his dependents, or beneficiaries if any, who are not eligible to receive benefits under § 51-127.15 shall receive the difference between the total contributions made hereunder by such member and any payments received by him and at the same rate at which such retired member was receiving benefits.~~

~~Any member who qualifies for normal retirement under § 51-127.17 or § 51-127.18:1, with the exception of any member converting from disability pensions and benefits granted under § 51-127.20 to normal retirement, may elect at the time of his retirement to have his retirement otherwise continue to be paid to his spouse in the event she survives him, in which event the retirement allowance provided for in § 51-127.17 or § 51-127.18:1 shall be recomputed in accordance with accepted actuarial principles for joint and survivor annuities, and such reduced amount shall be paid the member during his lifetime, then to his surviving spouse for her lifetime. Such election shall become irrevocable upon commencement of such payments.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Act of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.22. Purchase of retirement or like benefits from insurance company.—Notwithstanding any other provision of this act, the governing body of the county, if it deems proper, may use the amounts now or hereafter in the treasury of the county to the credit of any such retirement system for the purchase of retirement or other like benefits from any insurance company authorized to do business in this Commonwealth. The governing body of the county shall prescribe the benefits which may be payable under any such retirement contracts so purchased.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.23. Cost-of-living increases.— Cost-of-living increases to members retired under §§ 51-127.17 and 51-127.18:1 shall be granted. Such cost-of-living increases shall be determined by multiplying the present pension by the percentage change in the cost-of-living index as published by the Bureau of Labor Statistics. However, no year-to-year change in said index in excess of three per centum shall be taken into account. In addition, the board may grant ad hoc cost-of-living increases from time to time as deemed appropriate; provided that the total of all cost-of-living increases granted in any year shall not exceed five percent of the pension then being paid. Cost-of-living increases shall only be granted by the board when actuarial study determines that such increase shall not create a fund deficiency. For the purpose of this section an actuarial evaluation shall be made at least once every two years.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.24. Payment of retired member's medical insurance.—Notwithstanding any other provisions of this article, the board may in its discretion pay all or a percentage of each retired member's cost of medical insurance based on the financial condition of the retirement fund. This benefit, if granted by the board, may be revoked based on financial deficiency.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.25. Deductions from salaries.—For the purpose of raising funds for the payment of pensions and benefits and the costs and expenses of administering the affairs of the board there~~

shall be levied, and deducted from the salaries of the policemen, ten and one-half per centum of the amounts of their salaries or such per centum as may be determined by the county board of supervisors. All such amounts so levied and deducted shall be paid into the treasury of the board. The county board shall contribute to the pension fund an amount at least equal to the amount contributed by the policemen.

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.26. Investment and disposition of funds.—Any and all cash assets and funds on hand at any time not necessary for immediate payment of pensions or benefits hereunder shall be invested in legal investments for fiduciaries, pursuant to Chapter 3 (§ 26-38 et seq.), Title 26.~~

Any and all funds raised by any policemen's pension and retirement board created under this act for the payment of pensions and benefits shall be paid over to the treasurer of the board and deposited by him to its credit and paid out by him as hereinabove provided.

Should any change or error in the records result in any member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, the board shall have the power to correct such error, and, as far as practicable, to adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.27. Adoption of resolution to come under provisions of article; establishment of board. At any time after the effective date of this article any such county having a police department whose members are paid full or part time salaries may come under the provisions of this act and establish such a policemen's pension and retirement board if and when the governing body of the county so orders by a resolution approved by a majority of all members by a record ye and nay vote. Upon the adoption of such a resolution a policemen's pension and retirement board shall be constituted and organized as heretofore provided, and when so constituted and organized shall be vested with all the power and authority and charged with all the duties herein prescribed.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified in § 51.1-805(2) by reference.

~~§ 51-127.28. Appeal.—An appeal of right from the action of the board on any matter in which the board is given discretionary power shall lie to the circuit court of the county within whose jurisdiction the board is.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference. This section is also set out in the Code at the request of Fairfax County as proposed § 51.1-823.

~~§ 51-127.20. Applicability of article.—The provisions of this article shall not apply to any county having in operation on the date this act becomes effective any system of pensions or retirement benefits for members of its police department unless the governing body of the county elects to come under the provisions of this article.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

~~§ 51-127.30. Benefits unassignable; exemption from execution, etc.—The right of any member to a retirement allowance, to the return of contributions or any other right accrued or accruing to any person under the provisions of this article and the money created by this article shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law or any other process of law whatsoever and shall be unassignable except as specifically provided in this article.~~

DRAFTING NOTE: No section is repealed in Article. This section is continued in effect as Chapter 303 of Acts of Assembly of 1944, as amended, and is recodified as § 51.1-805(2) by reference.

### Article 3.

#### Counties Having Urban County Executive Form of Government.

**§ 51.1-821. Police Retirement System.**—Prior §§ 51-127.10 through 51-127.30 are continued in effect under § 51.1-805 subdivision 2 as Chapter 303 of the Acts of Assembly of 1944, as amended.

**§ 51.1-822. Amendment, suspension, or revocation of retirement plan and trust.**—The governing body of any county with an urban county executive form of government may by ordinance reserve the right to amend, suspend, or revoke the retirement plan and trust at any time, so long as the benefits payable under the plan are consistent with § 51.1-800. However, any amendment, suspension, or revocation shall not have the effect of diverting the trust fund to purposes other than the exclusive benefit of the participating employees or their beneficiaries until all liability for accrued benefits payable under the terms of the plan has been fully satisfied.

DRAFTING NOTE: This section is added at Fairfax County's request.

**§ 51.1-823. Appeal.**—An appeal of right from the action of the retirement board of any county having an urban county executive form of government on any matter in which the board has discretionary power shall lie to the circuit court of the county which has jurisdiction of the board.

DRAFTING NOTE: This section is added at Fairfax County's request.

## CHAPTER 9.

### CONFEDERATE VETERANS.

~~§ 51-2-1~~ **51.1-900 . Pensions.**—A. There shall be paid out of the treasury of Virginia pensions in amounts to be determined by the General Assembly for the widows and maiden or widowed daughters of soldiers, sailors and marines who served the Confederate States in the Civil War.

B. This section shall apply to widows and maiden or widowed daughters of Confederate veterans listed on the pension roll maintained by the Department of Social Services.

DRAFTING NOTE: No changes were made to this section. As of August 21, 1989, there were 41 beneficiaries on the pension roll maintained by the Department of Social Services. The beneficiaries are determined by the relief committee of the Virginia Division of the United Daughters of the Confederacy based on income eligibility established by the State Board of Social Services. Each beneficiary receives a monthly Confederate Women's Income Assistance payment of \$30.

## COMPARATIVE TABLES

**Virginia Retirement System.**

<u>NEW TITLE 51.1</u>	<u>OLD TITLE 51</u>
<b>Chapter 1</b>	<b>Chapter 3.2</b>
§ 51.1-100	§ 51-111.11
51.1-101	51-111.10
	51-111.10:01
	51-111.31
51.1-102	51-111.15
	51-111.24
	51-111.26:1
51.1-103	51-111.22:2
51.1-104	51-111.71
51.1-105	51-111.16
51.1-106	51-111.16
51.1-107	51-111.67
51.1-108	51-111.14
51.1-109	51-111.18
	51-111.19
	51-111.20
51.1-110	51-111.17
	51-111.18
	51-111.20
	51-111.21
	51-111.22
	51-111.22:1
	51-111.23
	51-111.68
51.1-111	51-111.25
51.1-112	51-111.26
51.1-113	51-111.26:2
51.1-114	51-111.24
51.1-115	51-149
	51-166
51.1-116	51-111.24:2
51.1-117	51-111.24:1
51.1-118	51-111.24:3
51.1-119	51-111.24:5
51.1-120	51-111.24:7
51.1-121	51-111.24:6
51.1-122	51-111.24:4
51.1-123	51-111.24:1
51.1-124	51-111.24:8
51.1-125	51-111.27
51.1-126	51-111.28
51.1-127	51-111.28

*\*"Repealed" means that the section was repealed prior to this title revision.  
 "Deleted" means that the section is being eliminated by this title revision and there is no corresponding section in the new title.*

**Virginia Retirement System.**  
*(continued)*

<u>NEW TITLE 51.1</u>	<u>OLD TITLE 51</u>
<b>Chapter 1</b>	<b>Chapter 3.2</b>
§ 51.1-128	§ 51-111.29
51.1-129	51-111.43
51.1-130	51-111.30
51.1-131	51-111.31
51.1-132	51-111.34
51.1-133	51-111.31
51.1-134	51-111.31
51.1-135	51-111.32
51.1-136	51-111.33
51.1-137	51-111.35
51.1-138	51-111.36
51.1-139	51-111.36
51.1-140	51-111.37
	51-111.38
	51-111.39
	51-111.41
	51-111.42
51.1-141	51-111.40
51.1-142	51-111.41
	51-111.41:1
	51-111.45
51.1-143	51-111.41:4
51.1-144	51-111.13
	51-111.46
	51-111.46:1
51.1-145	51-111.10:2
	51-111.12
	51-111.47
	51-111.47.01
51.1-146	51-111.47:1
51.1-147	51-111.49
51.1-148	51-111.50
51.1-149	51-111.51
51.1-150	51-111.52
51.1-151	51-111.52:3
51.1-152	51-111.10
	51-111.10:01
51.1-153	51-111.53
51.1-154	51-111.54
51.1-155	51-111.55
	51-111.55:1
51.1-156	51-111.56
51.1-157	51-111.57
	51-111.57:1



**Virginia Retirement System.**  
*(continued)*

<u>NEW TITLE 51.1</u>		<u>OLD TITLE 51</u>
<b>Chapter 1</b>		<b>Chapter 3.2</b>
51.1-158	§	51-111.59:1
51.1-159		51-111.61
51.1-160		51-111.63
51.1-161		51-111.58
51.1-162		51-111.58:1
51.1-163		51-111.59
51.1-164		51-111.58:2
51.1-165		51-111.60
51.1-166		51-111.60:1
51.1-167		51-111.65
51.1-168		Added

# COMPARATIVE TABLES

## **State Police Officers' Retirement System.**

<u>NEW TITLE 51.1</u>	<u>OLD TITLE 51</u>
<b>Chapter 2</b>	<b>Chapter 6</b>
§ 51.1-200	§ 51-143
51.1-201	51-144
51.1-202	51-145
51.1-203	51-111.41:4
	51-146
51.1-204	51-148
51.1-205	51-150
51.1-206	51-151
51.1-207	51-156
51.1-208	51-157.1

# COMPARATIVE TABLES

## **Judicial Retirement System.**

<u>NEW TITLE 51.1</u>	<u>OLD TITLE 51</u>
<b>Chapter 3</b>	<b>Chapter 7</b>
§ 51.1-300	§ 51-160
51.1-301	51-161
51.1-302	51-162
51.1-303	51-163
51.1-304	51-165.1
51.1-305	51-167
51.1-306	51-168
51.1-307	51-169
51.1-308	51-170
51.1-309	51-179

# COMPARATIVE TABLES

## **Pensions Coordinating Past and Present Retirement Plans.**

<u>NEW TITLE 51.1</u>		<u>OLD TITLE 51</u>	
<b>Chapter 4</b>		<b>Chapter 3.3</b>	
§	51.1-400	§	Added
	51.1-401		51-111.68
	51.1-402		51-111.67:4
			51-111.69
			51-111.70
			51-111.70:1
	51.1-403		51-111.46
			51-111.55
	51.1-404		51-111.57
	51.1-405		51-151

# COMPARATIVE TABLES

## **Group Insurance Program.**

<u>NEW TITLE 51.1</u>	OLD TITLE 51
<b>Chapter 5</b>	<b>Chapter 3.2</b>
§ 51.1-500	§ Added
51.1-501	51-111.67:1
51.1-502	51-111.67:2
51.1-503	51-111.27
51.1-504	51-111.67:3
51.1-505	51-111.67:2
	51-111.67:4
51.1-506	51-111.67:5
	51-111.67:6
51.1-507	51-111.67:6
51.1-508	51-111.67:9
51.1-509	51-111.67:12
51.1-510	51-111.67:8
	51-111.67:12.1
51.1-511	51-111.67:10
51.1-512	51-111.67:12.1
51.1-513	51-111.67:13.1
51.1-514	51-111.67:7

# COMPARATIVE TABLES

## **Government Employees Deferred Compensation Plan Act.**

<u>NEW TITLE 51.1</u>	<u>OLD TITLE 51</u>
<b>Chapter 6</b>	<b>Chapter 3.2</b>
§ 51.1-600	§ 51-111.67:15
51.1-601	51-111.67:16
51.1-602	51-111.67:17
51.1-603	51-111.67:18
51.1-604	51-111.67:19
51.1-605	51-111.67:20



# COMPARATIVE TABLES

## **Federal Social Security for State and Local Employees.**

<u>NEW TITLE 51.1</u>	<u>OLD TITLE 51</u>
<b>Chapter 7</b>	<b>Chapter 3.1</b>
§ 51.1-700	§ 51-111.2
51.1-701	51-111.8
51.1-702	51-111.3
51.1-703	51-111.3
51.1-704	51-111.4
51.1-705	51-111.5
51.1-706	51-111.6

# COMPARATIVE TABLES

## Local Retirement Systems.

<u>NEW TITLE 51.1</u>	OLD TITLE 51
<b>Chapter 8</b>	<b>Chapter 4</b>
§ 51.1-800	§ 51-111.31
51.1-801	51-112
51.1-802	51-112
51.1-803	51-112.1
51.1-804	51-113
51.1-805	51-114;
	51-127.10 through 51-127.30
51.1-806	51-114.2
51.1-807	51-115
51.1-808	51-116
51.1-809	51-117
51.1-810	51-118
51.1-811	51-120
51.1-812	51-121
51.1-813	51-122
51.1-814	51-122.1
51.1-815	51-119
	51-122.2
51.1-816	51-122.3
51.1-817	51-124
51.1-818	51-125
51.1-819	51-126
51.1-819	51-126.1
51.1-820	51-127.9
51.1-821	Added
51.1-822	Added
51.1-823	Added

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# COMPARATIVE TABLES

## **Confederate Veterans.**

NEW TITLE 51.1.

OLD TITLE 51

**Chapter 9**

**Chapter 1.1**

§ 51.1-900

§ 51-2.1

# COMPARATIVE TABLES

## **Confederate Veterans, etc.**

	<u>OLD TITLE 51</u>	<u>NEW TITLE 51.1</u>
	<b>Chapter 1</b>	
§	51-1 51-2	Repealed Repealed

## **Confederate Veterans, etc.**

	<u>OLD TITLE 51</u>	<u>NEW TITLE 51.1</u>
	<b>Chapter 1.1</b>	<b>Chapter 9</b>
§	51-2.1	§ 51.1-900

## **Judges, Commissioners and Assistant Attorneys General.**

	<u>OLD TITLE 51</u>	<u>NEW TITLE 51.1</u>
	<b>Chapter 2</b>	
§§	51-3 through 51-29	Repealed

# COMPARATIVE TABLES

## **Clerks of Senate and House of Delegates.**

OLD TITLE 51

NEW TITLE 51.1

### **Chapter 2.1**

§§ 51-29.1 through 51-29.7:1      Repealed

## **Trial Justices.**

OLD TITLE 51

NEW TITLE 51.1

### **Chapter 2.2**

§§ 51-29.8 through 51-29.19      Repealed

## **Employees of State and Public School Boards.**

OLD TITLE 51

NEW TITLE 51.1

### **Chapter 3**

§§ 51-30 through 51-111      Repealed

# COMPARATIVE TABLES

## **Federal Social Security for State and Local Employees.**

<u>OLD TITLE 51</u>	<u>NEW TITLE 51.1</u>
<b>Chapter 3.1</b>	<b>Chapter 7</b>
§ 51-111.1	§ Deleted
51-111.2	51.1-700
51-111.3	51.1-702
51-111.3	51.1-703
51-111.3:1	Deleted
51-111.4	51.1-704
51-111.5	51.1-705
51-111.6	51.1-706
51-111.7	Deleted
51-111.8	51.1-701

# COMPARATIVE TABLES

## Virginia Supplemental Retirement Act.

<u>OLD TITLE 51</u>	<u>NEW TITLE 51.1</u>
<b>Chapter 3.2</b>	<b>Chapters 1, 5, 6</b>
§ 51-111.9	§ Deleted
51-111.10	51.1-101
	51.1-152
51-111.10:01	51.1-101
	51.1-152
51-111.10:1	Deleted
51-111.10:2	51.1-145
51-111.10:3	Deleted
51-111.11	51.1-100
51-111.12	51.1-145
51-111.13	51.1-144
51-111.14	51.1-108
51-111.15	51.1-102
51-111.16	51.1-105
	51.1-106
51-111.17	51.1-110
51-111.18	51.1-109
	51.1-110
51-111.19	51.1-109
51-111.20	51.1-109
	51.1-110
51-111.21	51.1-110
51-111.22	51.1-110
51-111.22:1	51.1-110
51-111.22:2	51.1-103
51-111.23	51.1-110
51-111.24	51.1-102
	51.1-114
51-111.24:1	51.1-117
	51.1-123
51-111.24:2	51.1-116
51-111.24:3	51.1-118
51-111.24:4	51.1-122
51-111.24:5	51.1-119
51-111.24:6	51.1-121
51-111.24:7	51.1-120
51-111.24:8	51.1-124
51-111.25	51.1-111
51-111.26	51.1-112
51-111.26:1	51.1-102
51-111.26:2	51.1-113
51-111.27	51.1-125
	51.1-503



**Virginia Supplemental Retirement Act.**  
*(continued)*

<u>OLD TITLE 51</u>	<u>NEW TITLE 51.1</u>
<b>Chapter 3.2</b>	<b>Chapters 1, 5, 6</b>
§ 51-111.28	§ 51.1-126
51-111.28	51.1-127
51-111.28:1	Repealed
51-111.29	51.1-128
51-111.30	51.1-129
51-111.30:1	Repealed
51-111.31	51.1-101
51-111.31	51.1-130
51-111.31	51.1-132
51-111.31	51.1-133
51-111.31	51.1-800
51-111.32	51.1-134
51-111.33	51.1-135
51-111.34	51.1-131
51-111.35	51.1-136
51-111.36	51.1-137
51-111.37	51.1-138
51-111.38	51.1-139
51-111.38:1 through 51-111.38:3	Repealed
51-111.38:4	Deleted
51-111.38:5	Deleted
51-111.38:6 through 51-111.38:9	Reserved
51-111.38:10 through 51-111.38:16	Repealed
51-111.39	51.1-140
51-111.40	51.1-141
51-111.41	51.1-140
51-111.41	51.1-142
51-111.41:1	51.1-142
51-111.41:2	Deleted
51-111.41:3	Deleted
51-111.41:4	51.1-143
51-111.41:4	51.1-203
51-111.42	51.1-140
51-111.43	51.1-128
51-111.44	Deleted
51-111.45	51.1-142
51-111.46	51.1-144
51-111.46	51.1-403
51-111.46:1	51.1-144
51-111.47	51.1-145
51-111.47:01	51.1-145
51-111.47:1	51.1-146
51-111.48	Deleted
51-111.49	51.1-147
51-111.50	51.1-148
51-111.51	51.1-149
51-111.52	51.1-150

**Virginia Supplemental Retirement Act.**  
*(continued)*

**OLD TITLE 51**

**NEW TITLE 51.1**

**Chapter 3.2**

**Chapters 1, 5, 6**

§ 51-111.52:1	§ Repealed
51-111.52:2	Repealed
51-111.52:3	51.1-151
51-111.52:4	Repealed
51-111.52:5	Repealed
51-111.53	51.1-153
51-111.54	51.1-154
51-111.55	51.1-155
51-111.55	51.1-403
51-111.55:1	51.1-155
51-111.56	51.1-156
51-111.57	51.1-157
51-111.57	51.1-404
51-111.57:1	51.1-157
51-111.58	51.1-161
51-111.58:1	51.1-162
51-111.58:2	51.1-164
51-111.59	51.1-163
51-111.59:1	51.1-158
51-111.60	51.1-165
51-111.60:1	51.1-166
51-111.60:2	Deleted
51-111.60:3	Deleted
51-111.60:4	Deleted
51-111.61	51.1-159
51-111.62	Repealed
51-111.63	51.1-160
51-111.64	Deleted
51-111.65	51.1-167
51-111.66	Deleted
51-111.67	51.1-107
51-111.67:1	51.1-501
51-111.67:2	51.1-502
51-111.67:2	51.1-505
51-111.67:3	51.1-504
51-111.67:4	51.1-402
51-111.67:4	51.1-505
51-111.67:5	51.1-506
51-111.67:6	51.1-506
51-111.67:6	51.1-507
51-111.67:7	51.1-514
51-111.67:8	51.1-510
51-111.67:9	51.1-508
51-111.67:10	51.1-511
51-111.67:11	Deleted

**Virginia Supplemental Retirement Act.**  
*(continued)*

**OLD TITLE 51**

**NEW TITLE 51.1**

**Chapter 3.2**

**Chapters 1, 5, 6**

§ 51-111.67:12  
51-111.67:12.1  
51-111.67:12.1  
51-111.67:13  
51-111.67:13.1  
51-111.67:14  
51-111.67:15  
51-111.67:16  
51-111.67:17  
51-111.67:18  
51-111.67:19  
51-111.67:20  
51-111.67:21

§ 51.1-509  
51.1-510  
51.1-512  
Repealed  
51.1-513  
Deleted  
51.1-600  
51.1-601  
51.1-602  
51.1-603  
51.1-604  
51.1-605  
Deleted

# COMPARATIVE TABLES

## Provisions Coordinating Past and Present Security and Retirement Plans.

OLD TITLE <u>51</u>	NEW TITLE <u>51.1</u>
<b>Chapter 3.3</b>	<b>Chapter 4</b>
§ 51-111.68	§ 51.1-110
51-111.68	51.1-401
51-111.68:1	Deleted
51-111.69	51.1-402
51-111.70	51.1-402
51-111.70:1	51.1-402
51-111.70:2	Deleted
51-111.71	51.1-104
51-111.72	Deleted
51-111.73	Deleted
51-111.74	Deleted

# COMPARATIVE TABLES

## Officers and Employees of Counties, Cities, and Towns.

OLD TITLE 51	NEW TITLE 51.1
<b>Chapter 4</b>	<b>Chapter 8</b>
§ 51-112	§ 51.1-801
51-112.1	51.1-802
51-113	51.1-803
51-114	51.1-804
51-114.1	51.1-805
51-114.2	Deleted
51-115	51.1-806
51-116	51.1-807
51-117	51.1-808
51-118	51.1-809
51-119	51.1-810
51-120	51.1-815
51-121	51.1-811
51-122	51.1-812
51-122.1	51.1-813
51-122.2	51.1-814
51-122.3	51.1-815
51-123	51.1-816
51-124	Deleted
51-125	51.1-817
51-126	51.1-818
51-126.1	51.1-819
51-127	51.1-819
51-127.1	Deleted
51-127.2	Deleted
51-127.3	Deleted
51-127.4	Deleted
51-127.5	Deleted
51-127.6	Deleted
51-127.7	Deleted
51-127.8	Deleted
51-127.9	51.1-820
51-127.10	51.1-805(2)
51-127.11	51.1-805(2)
51-127.12	51.1-805(2)
51-127.13	51.1-805(2)
51-127.14	51.1-805(2)
51-127.15	51.1-805(2)
51-127.16	51.1-805(2)
51-127.17	51.1-805(2)
51-127.18	51.1-805(2)
51-127.18:1	51.1-805(2)

**Officers and Employees of Counties, Cities, and Towns.**  
*(continued)*

OLD TITLE 51

NEW TITLE 51.1

**Chapter 4**

**Chapter 8**

§ 51-127.19  
51-127.20  
51-127.21  
51-127.22  
51-127.23  
51-127.24  
51-127.25  
51-127.26  
51-127.27  
51-127.28  
51-127.29  
51-127.30

§ 51.1-805(2)  
51.1-805(2)  
51.1-805(2)  
51.1-805(2)  
51.1-805(2)  
51.1-805(2)  
51.1-805(2)  
51.1-805(2)  
51.1-805(2)  
51.1-805(2)  
51.1-805(2)  
51.1-805(2)

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# COMPARATIVE TABLES

## State Police Officers.

### OLD TITLE 51.

### NEW TITLE 51.1.

#### Chapter 5

§§ 51-128 through 51-142

Repealed

## State Police Officers' Retirement System.

### OLD TITLE 51.

### NEW TITLE 51.1.

#### Chapter 6

#### Chapter 2

§ 51-143  
51-144  
51-145  
51-146  
51-147  
51-148  
51-149  
51-150  
51-151  
51-151  
51-152  
51-153  
51-154  
51-155  
51-156  
51-156.1  
51-157  
51-157.1  
51-158  
51-159

§ 51.1-200  
51.1-201  
51.1-202  
51.1-203  
Deleted  
51.1-204  
51.1-115  
51.1-205  
51.1-206  
51.1-405  
Deleted  
Deleted  
Deleted  
Deleted  
51.1-207  
Deleted  
Deleted  
51.1-208  
Deleted  
Deleted



# COMPARATIVE TABLES

## Judicial Retirement System.

<u>OLD TITLE 51</u>	<u>NEW TITLE 51.1</u>
<b>Chapter 7</b>	<b>Chapter 3</b>
§ 51-160	§ 51.1-300
51-161	51.1-301
51-162	51.1-302
51-163	51.1-303
51-163.1	Deleted
51-164	Deleted
51-165	Repealed
51-165.1	51.1-304
51-166	51.1-115
51-167	51.1-305
51-168	51.1-306
51-169	51.1-307
51-170	51.1-308
51-170.1	Deleted
51-171	Deleted
51-172	Deleted
51-173	Deleted
51-173.1	Deleted
51-174	Deleted
51-174.1	Deleted
51-175	Deleted
51-176	Repealed
51-176.1	Deleted
51-177	Repealed
51-178	12.1-11.1
	14.1-39.1
	16.1-69.22:1
	17-7.01
	65.1-101
51-179	51.1-309
51-180	Repealed

## APPENDIX III

Sections in titles other than Title 51 of the *Code of Virginia* that must be amended or added as a result of the recodification are listed below.

### **Amended**

§ 2.1-120.4

### **Added**

§ 12.1-11.1  
14.1-39.1  
16.1-69.22:1  
17-7.01  
65.1-10.1



