

ARLINGTON COUNTY CODE

Chapter 35

ARLINGTON COUNTY SCHOOL BOARD EMPLOYEES' SUPPLEMENTAL  
RETIREMENT SYSTEM

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**ARTICLE I.**

**IN GENERAL**

**§ 35-1. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Accumulated contributions” means the sum of all amounts contributed by a member and credited to his individual account in the members' contribution account, and any other amounts he shall have contributed, or transferred thereto, including interest credited as provided in § 35-33.C.

“Average final compensation” means the average annual creditable compensation of a member during the thirty-six (36) consecutive months of creditable service in which such compensation was at its greatest amount or during the entire period of his creditable service if less than thirty-six (36) months.

If a member's creditable service exceeds thirty-six (36) months, but does not contain a period of thirty-six (36) consecutive months, the thirty-six (36) months of creditable service which would have been consecutive but for an interceding period or periods of other than creditable service, in which such compensation was at its greatest amount, shall be the period on which the determination of his average final compensation shall be based.

“Beneficiary” means any person entitled to receive benefits as provided by the System.

“Board” means the Board of Trustees of the System.

“County Manager” means the County Manager or his designee.

“Creditable compensation” means the full compensation, including pickup contributions and any elective employer contributions under the flexible benefits plan, payable to an employee. In cases where the compensation

includes maintenance and other perquisites, the Board shall fix the value of that part of the compensation not paid in money. Effective January 1, 2009, creditable compensation shall include any differential wage payments for military service as defined under Section 3401(h)(2) of the Internal Revenue Code. Other provisions notwithstanding, except in the case of an employee who first became a member before July 1, 1996, annual creditable compensation shall not exceed the amount established pursuant to Internal Revenue Code § 401(a)(17) as indexed annually.

“Creditable service” means membership service plus prior service credit.

“Employee” means any person regularly employed prior to February 8, 1981 by the County School Board or by the Department of Human Resources.

“Employer” means the County School Board or the Department of Human Resources.

“Fiscal year” means each twelve (12) month period ending June thirtieth.

“Member” means any person included in the membership of the System as provided in § 35-25 who has not ceased to be a member as provided in § 35-26.

“Membership service” means service as a member for which credit is allowable as provided in § 35-29.

“Normal retirement date” means the first day of the month following the sixty-second birthday of a member.

“Prior service credit” means the years and months of continuous service prior to the effective date of this chapter as an employee of County School Board provided the employee was covered by and participating in the Virginia Retirement System.

“Retiree” means any prior member or beneficiary who is receiving a retirement payment, or has elected to receive a deferred vested retirement allowance.

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

“Service” means service as an employee for which compensation is paid by the employer.

“System” means the Arlington County School Board Employees' Supplemental Retirement System. (1-1-69; 7-1-70; 10-21-70; 6-25-77; 2-8-81; Ord. No. 84-18, 6-2-84; Ord. No. 87-24, 9-26-87; Ord. No. 96-13, 6-29-96; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 05-10, 7-12-05; Ord. No. 11-06, 5-14-11)

### **§ 35-2. Arlington County School Board Employees' Supplemental Retirement System Established.**

There is hereby established a retirement system for professional and clerical employees of the Arlington County School Board, to be known as the Arlington County School Board Employees' Supplemental Retirement System, by and in which name it shall transact all of its business. Provisions and benefits of this chapter are limited to and will be revised to the extent that the provisions of Virginia Retirement Plan for public employees approaches the provisions and benefits of Chapter 21, Code of the County of Arlington, Virginia. The System is intended to satisfy Internal Revenue Code §§ 401(a) and 414(d) requirements for qualified governmental pension plans.

(1-1-69; 5-24-75; Ord. No. 13-08, 10-19-13)

### **§ 35-3. Duties of the Employer.**

The employer shall keep such records and furnish such information as the Board or County Manager may require in the discharge of their duties. Upon employment of a member, the employer shall inform the member of his duties and obligations in connection with the System as a condition of employment.

(1-1-69; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**§ 35-4. Effect of Acceptance of Employment.**

Upon acceptance of employment, every member shall be deemed to consent and agree to any deductions from his compensation required by this chapter, and to all other provisions thereof.

(1-1-69)

**§ 35-5. Fraud and Deceit.**

Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record of the System in any attempt to defraud the System shall be guilty of a misdemeanor, and shall be punished accordingly.

(1-1-69)

**§ 35-6. Assignments.**

The right of any member to a retirement allowance, to the return of contributions, or any other right or moneys accrued or accruing to any person under the provisions of this chapter 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 that a member may, upon leaving employment and withdrawal of contributions, assign and make payable his contributions, or any portion thereof, to the County, or its units and organizations operated for the benefit of the employees.

(1-1-69)

**§ 35-7. Correction in Errors in Payments.**

Should any member or beneficiary receiving benefits from the System receive more or less than he would have been entitled to receive, the County Manager to correct such error, and shall, as far as practicable, adjust the payments including future payments in such a manner that the benefit to which the member or beneficiary was correctly entitled shall be paid. Whenever any member or beneficiary receives less than he or she would have been entitled to receive, the County Manager may authorize the payment of interest on the unpaid balance owed to the member or beneficiary at a rate to be determined by the County Manager provided that the error in payment was discovered after January 1, 2001.

(1-1-69; 11-6-71; Ord. No. 00-33, 12-18-00; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**§ 35-8. Amendments.**

The County Board shall have the continuing right and power to amend or supplement this chapter at any time. No amendment shall be made unless the actuary has filed with the County Board a report as to its effect upon the System, and no amendment shall be adopted which will reduce the then accrued benefits of employees or beneficiaries below the extent they are then covered by accumulated reserves, which reserves shall constitute a trust fund for the payment of such benefits.

(1-1-69)

**ARTICLE II.**

**ADMINISTRATION**

**§ 35-9. Board of Trustees and County Board--Powers and Duties.**

The responsibilities regarding sound management and investment of the System's funds are hereby vested in the Board of Trustees of the System. The responsibility for setting the size and type of benefits rests with the Arlington County Board, which shall be responsible for paying the costs of any actuarial studies relating to the size and type of benefits.

(1-1-69; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**§ 35-10. Same--Accountability.**

The Board of Trustees shall be accountable to the County Board.  
(1-1-69)

**§ 35-11. Same--Composition; Organization and Terms of Office.**

The Board shall consist of six (6) trustees as follows: The County Treasurer, who shall be treasurer of the Board; two (2) trustees appointed by the School Board; two (2) trustees appointed by the County Board, one (1) of whom shall be designated president; and one (1) trustee elected by the employees of the School Board who are members of the System. The election of the trustees by the employees of the School Board shall be conducted under procedural rules approved by the County Board. When such Board shall be so created and constituted it shall at its first meeting, and annually thereafter, elect one (1) of its members as vice-president and one (1) as secretary. The Treasurer shall hold office for his term as County Treasurer. The term of office of the employee-elected member shall be four (4) years. The term of office for the School Board and the County Board appointees shall be four (4) years except for the first appointment by both the School Board and the County Board after November 1, 1976, which shall be for a two (2) year term. Their successors shall be elected thirty (30) days before the expiration of the four (4) year term. Provided that when the Board established pursuant to § 46-12 has been created and constituted, it shall be the Board of Trustees for this System.

(1-1-69; 12-18-76; 2-8-81)

**§ 35-12. Same--Vacancies.**

If a vacancy occurs in the office of a Trustee of the Board, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(1-1-69)

**§ 35-13. Same--Compensation.**

The Trustees of the Board shall serve as such without compensation.

(1-1-69)

**§ 35-14. Same--Rules and Regulations.**

Subject to the limitations of this chapter, the Board shall establish such rules and regulations for the transaction of its business, copies of which shall be made available to interested parties.

(1-1-69; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**§ 35-15. Same--Employment of Staff.**

The Board shall employ the staff authorized by § 21-16 and pay out of the System fund for all services as shall be required.

(1-1-69; Ord. No. 12-13, 9-15-12)

**§ 35-16. Same--Data.**

The Board and the County Manager shall keep in convenient form such data as shall be necessary for actuarial valuation of the System and for checking the experience of the System.

(1-1-69; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**§ 35-17. Same--Proceedings; Financial Condition of System.**

The Board shall keep minutes of all its proceedings, which shall be open to public inspection. It shall submit to the County Board annually an independent audit showing the fiscal transactions of the System for the

preceding fiscal year, the amount of accumulated cash and securities of the System, and the last balance sheet indicating the financial condition of the System.

(1-1-69)

**§ 35-18. Same--Actuarial Investigations and Valuations.**

At least once in each five (5) year period, the Board shall cause an actuarial study to be made of all the experience of the System. At least once in each two (2) year period, the Board shall cause an actuarial valuation to be made. Pursuant to such valuations, the County Board may revise the rates of employee and/or employer contributions.

(1-1-69; Ord. No. 87-29, 12-12-87)

**§ 35-19. Same--Responsibilities under Prior Ordinances.**

The County Manager shall assume the responsibility to provide for the payment of vested rights and return of accumulated contributions under all prior ordinances.

(1-1-69; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**§ 35-20. Same--Legal Advisor.**

The County Attorney shall be legal advisor of the Board.

(1-1-69; 5-31-80)

**ARTICLE III.**

**MANAGEMENT OF FUNDS**

**§ 35-21. Investment and Reinvestment of Assets.**

The members of the Board shall be the trustees of all assets of the System. The Board shall have full power and authority to invest and reinvest such assets, and to change such investments and reinvestments. The Board shall invest the assets of the System with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board, in its discretion, may take the necessary steps to establish a trust for the administration of the assets of the System. The Board may employ an investment advisor or advisors to invest and reinvest assets of the System in accordance with the provisions of this chapter and regulations established by the Board.

(1-1-69; 1-5-80; Ord. No. 00-34, 11-1-00; Ord. No. 05-10, 7-12-05)

**§ 35-22. Types of Investments.**

The Board shall have full power in its sole discretion to invest and reinvest all funds and property of the System in accordance with § 21-23 and shall diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly not prudent to do so.

(1-1-69; 8-18-79; 9-13-80; Ord. No. 05-10, 7-12-05)

**§ 35-23. Powers and Duties of the Treasurer of the Board; Bond; Warrants.**

A. Except as provided in paragraph B, the Treasurer of the Board shall be the custodian of all of its funds and securities. He shall give bond, payable to the Board, in such amounts and with such surety as the Board requires, conditioned upon the faithful performance of his duties and the proper accounting of all funds and securities coming into his hands, the cost of the bond to be paid out of funds of the System. He shall deposit all moneys in the name of the Board and disburse the same only on warrants signed by such person as is designated for the purpose by the Board or the County Manager, as appropriate. No warrant shall be signed unless it has previously been authorized

by the Board, on either blanket approval by class of expenditure or approval by specific item, which authorization shall be recorded on the records of the Board.

B. The Board may designate one (1) or more banks or trust companies to act as custodian of its funds and securities. In such event, registered securities in the custody of such custodian may be registered in the name of the nominee of such custodian, or a nominee of Depository Trust Company in the case of securities eligible for such registration.

(1-1-69; 9-13-80; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**§ 35-24. Personal Interest of Board Members and Employees.**

No Board member or Board employee shall have any direct or indirect personal interest in the gains or profits of any investments made by the Board other than as a member of the System. No member or employee of the Board shall, directly or indirectly, for himself or as an agent in any manner use the funds of the System, except to make disbursements as are authorized by the Board, or the payment of benefits.

(1-1-69; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**ARTICLE IV.**

**MEMBERSHIP IN THE SYSTEM**

**§ 35-25. Eligibility Requirements.**

A. All employees who are covered by and participating in the Virginia Retirement System are eligible for membership.

B. Persons who become employees after the effective date of this chapter who, at the time of becoming an employee, have attained an age which is within five (5) years of their normal retirement date are ineligible for membership.

C. Regular employees of the Arlington County School System who were members of the Virginia Retirement System and who retired prior to April 1, 1969 are eligible for membership upon payment in full of the member contribution.

(1-1-69; 12-1-73; Ord. No. 00-34, 11-1-00)

**§ 35-26. Cessation of Membership.**

The membership of any person in the System shall cease:

A. If he ceases to be an employee for a period of five (5) years, unless he is eligible to receive a deferred vested retirement allowance as provided in § 35-40.E.

B. Upon separation and withdrawal of his accumulated contributions.

C. Upon retirement.

D. Upon death.

(1-1-69; Ord. No. 84-18, 6-2-84)

**ARTICLE V.**

**CREDITABLE SERVICE**

**§ 35-27. Creditable Service.**

Creditable service at retirement on which the retirement allowance is based shall consist of:

- A. Membership service credit.
- B. Prior service credit.

(1-1-69)

**§ 35-28. Year of Service.**

The County Manager shall determine by appropriate rules and regulations what periods of service in any year qualify as periods of creditable service, but in no case shall it allow credit for more than one (1) year of service rendered in any period of twelve (12) consecutive months.

(1-1-69; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**§ 35-29. Membership Service Credit.**

A. Each member shall receive membership service credit for all service rendered while a member of the System after he becomes a member, or after he last became a member in the event of a break in his membership, and provided he is receiving credit for such service under the Virginia Retirement System, for the period he is absent due to a service-connected disability. Each member shall receive membership service credit for military leave to the extent such credit is granted under the Virginia Retirement System. Notwithstanding any other provision in this chapter to the contrary, contributions, benefits and creditable service with respect to qualified military service will be provided in accordance with Internal Revenue Code § 414(u), effective October 13, 1996.

B. An employee who becomes a member after reemployment and after having withdrawn the accumulated contributions contributed during his prior membership may reestablish his membership service credit for the period of his prior membership by repayment to the System of the amount of his withdrawn contributions, with interest at the rate of six percent (6%) per annum from date of withdrawal, which shall be a lump sum payment. (1-1-69; Ord. No. 00-34, 11-1-00)

**ARTICLE VI.**

**CONTRIBUTIONS**

**§ 35-30. Member Contributions.**

A. Each employee who becomes a member as of the effective date of this chapter and who elects to be credited with the prior service retirement allowance as specified in § 35-37.B must contribute an amount equal to one and one-half percent (1.5%) of his creditable compensation for the calendar year 1968 multiplied by his years of prior service credit and provided further that those members who retired prior to April 1, 1969, must contribute an amount equal to one and one-half percent (1.5%) of his creditable compensation for the last full year (contract year) employed prior to retirement multiplied by his years of prior service credit.

The election to be credited with the prior service retirement allowance must be made within ninety (90) days following the effective date of the adoption of the chapter in the manner prescribed by the Board. The payment of the amount specified above shall be paid within three (3) years following adoption of this chapter or before retirement, whichever comes first and provided further, however, that those who retired prior to April 1, 1969, must make the payment of the amount specified in full on or before June 30, 1976.

B. Members shall be neither required nor permitted to make a contribution with respect to the retirement allowance which is based on membership service credit commencing on or after the effective date of this chapter, or after the effective date of the department's or unit's entrance into this System, whichever is later.

C. Each employee of a department or unit that becomes a part of this System by County Board action subsequent to the effective date of this chapter and who elects to be credited with the prior service retirement

allowance as specified in § 35-37.B must contribute an amount equal to an actuarially determined percentage of his creditable compensation for the full calendar year, or contract year if applicable immediately preceding the effective date of his department's or unit's entrance into this System, multiplied by his years of prior service credit.

D. The election to be credited with the prior service retirement allowance must be made within ninety (90) days following the effective date of entrance of the department or unit into the System. Payment by employee contributions must be made in full within fifteen (15) months from the date of the department or unit's entrance into the System.

E. The Department of Human Resources employees who are members of the System, shall be authorized to purchase prior service in the manner outlined for new departments or units in § 35-30.C.

The election to be credited with the prior service retirement allowance must be made within ninety (90) days of enactment of § 35-30.E. Payment by employee contributions must be made within fifteen (15) months from the date of such enactment.

F. For employees who became members as of the effective date of this chapter and failed to make the election to be credited with the prior service retirement allowance within ninety (90) days following the effective date of the adoption of the chapter or who made the election but failed to make payment of the amount specified within three (3) years following adoption of the chapter, the option for purchase of pre-effective-date service credits shall be open to allow members with unpurchased pre-effective-date service credit to purchase it by contributing the employer normal cost percent in effect as of the date of the purchase multiplied by the employee's current compensation multiplied by the years of service credit sought.

G. Effective July 1, 1976, members who exercised the foregoing election and make the appropriate contribution shall have their contribution account so credited and may use said account for any benefits currently provided by the System.

H. A member, who is a member of the Virginia Retirement System (V.R.S.), may purchase membership credit for leave, provided he is receiving credit for such leave under the V.R.S., by contributing the employer's normal cost in effect as of the date of purchase multiplied by the employee's current compensation multiplied by the years of service credit sought.  
(1-1-69; 10-12-74; 5-24-75; 2-21-76; 6-24-78; Ord. No. 84-18, 6-2-84; Ord. No. 89-15, 7-1-89; Ord. No. 00-34, 11-1-00)

#### **§ 35-31. Employer Contributions.**

A. The employer shall contribute a percentage of the creditable compensation of the members.

B. Employer contributions shall be determined by the County Board in accordance with § 46-33.

C. Notwithstanding anything in this chapter to the contrary, the amount of annual additions of a member for any limitation year for purposes of Internal Revenue Code § 415 shall not exceed the maximum permissible amount determined pursuant to the provisions of such section applicable to governmental plans, as defined for purposes of such section. If the member's annual additions for any limitation year (as defined for purposes of such section) would exceed such maximum permissible amount, the amount contributed or allocated shall be reduced so that the annual additions for such limitation year will equal such maximum permissible amount.

D. Any forfeiture arising from severance of employment or deaths shall be used to reduce the employer contribution under the plan.  
(1-1-69; 11-6-71; 7-1-75; Ord. No. 86-33, 1-1-87; Ord. No. 00-34, 11-1-00; Ord. No. 05-10, 7-12-05; 11-06, 5-14-11; Ord. No. 17-11, 9-16-17)

### **ARTICLE VII.**

## ASSETS OF SYSTEM

**§ 35-32. Assets to be Credited to One of Two Accounts.**

All assets of the System shall be credited, according to the purpose for which they are held, to one (1) of two (2) accounts, namely, "the members' contribution account," and "the retirement allowance account."  
(1-1-69)

**§ 35-33. Members' Contribution Account.**

A. The members' contribution account shall be the account to which members' contributions and interest allowances shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement.

B. Each member's contribution provided for in § 35-30 shall be credited to the individual account of the contributing member.

C. Each individual account of the members' contribution account shall be credited with interest at a rate set annually by the Board of Trustees based upon the interest earned by the System's assets during the preceding year, provided that such interest shall not exceed six percent (6%); and provided further that interest shall accrue on any such contribution beginning at the end of the calendar year in which each such contribution was made; and further provided that interest shall not be accredited or accumulated to the individual accounts of persons who have ceased to be members as defined in § 35-26.

D. Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.  
(1-1-69; Ord. No. 84-18, 6-2-84)

**§ 35-34. Retirement Allowance Account.**

A. The retirement allowance account shall be the account in which all employer contributions shall be accumulated, amounts transferred from the members' contribution account, and to which all income from the invested assets of the System shall be credited. This account shall pay retirement allowances, other benefits payable after a member's retirement, and necessary expenses of the System.

B. The amount of interest allowances provided for in § 35-33.C shall be transferred each year from the retirement allowance account to the members' contribution account.  
(1-1-69)

**§ 35-35. Cash Deposits.**

For the purpose of meeting disbursements for retirement allowances and other payments there may be kept available cash, not exceeding ten percent (10%) of the total amount in the accounts of the System, on deposit in one (1) or more banks or trust companies that are approved as depositories for County funds.  
(1-1-69)

## ARTICLE VIII.

## TYPES OF RETIREMENT, OTHER BENEFITS AND CONDITIONS THEREOF

**§ 35-36. Service Retirement.**

A. *Normal retirement.* Any member of the System at his or her normal retirement date, age sixty-two (62), may retire or elect to participate in the DROP at any time then or thereafter upon written notification to the County Manager, made by such member, 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 (90) days subsequent to the filing of such notice.

B. *Compulsory retirement.* Any member who has attained the age of seventy (70) shall be retired forthwith on a service retirement allowance.

C. *Early retirement.*

1. Any member of the System may retire at any time within the seven (7) year period immediately preceding his or her normal retirement date.
2. Any member of the System who is a County employee may also retire or elect to participate in the DROP at any time when years of service added to age equal at least eighty (80).

For purposes of this § 35-36.C, in cases where the period of creditable service is pertinent in determining a member's normal retirement date, such date shall be determined on the assumption that the member would have continued to be an employee until his normal retirement date. Such assumed period of employment shall be counted in determining the normal retirement date, but for no other purpose.

Written application for early retirement is required. The application shall set forth the effective date of retirement which shall be after the member's last day of service but not more than ninety (90) days subsequent to the filing of the application.

D. *Service Retirement – Special Conditions.* The County Manager may, once every fiscal year for period of time not to exceed sixty (60) days, offer to: (i) general employees whose age plus service equals or exceeds seventy-eight (78), and (ii) public safety employees who are fifty (50) or more years old and have completed five (5) years of service or have completed twenty-three (23) years of service, regardless of age, service credit for an additional one (1) year of service and/or an additional one (1) year of age, provided the employee submits an application for retirement within the timeframe prescribed by the County Manager.

The County Manager may do so only after the Manager determines that there is a business necessity to reduce the workforce for budgetary reasons.  
(1-1-69; 11-6-71; 6-25-77; 9-13-80; Ord. No. 00-34, 11-1-00; Ord. No. 03-23, 10-18-03; Ord. No. 04-16, 6-26-04, effective 7-1-04; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 05-10, 7-12-05; Ord. No. 09-26, 11-17-09; Ord. No 12-01, 1-21-12)

### **§ 35-37. Service Retirement Allowance.**

A. Upon service retirement prior to July 1, 1975, a member shall receive an annual retirement allowance, payable monthly to him for life, equal to five-eighths percent (0.625%) of his average final compensation multiplied by his years of member service credit plus, if applicable, the amount specified in § 35-37.B below.

B. Upon service retirement prior to July 1, 1975, of a member who has made the election and the contribution provided for in § 35-30, he shall receive an annual retirement allowance, payable monthly to him for life, equal to five-eighths percent (0.625%) of his average final compensation multiplied by his years of prior service credit.

C. Upon service retirement on or after July 1, 1975, a member shall receive an annual retirement allowance, payable to him for life, equal to two and one-eighth percent (2.125%) of his average final compensation multiplied by his years of member service credit and reduced by that part of the annual early or normal retirement allowance for which the member is eligible under formula A of the Virginia Retirement System as it exists on July 1, 1975, for such years of member service credit plus, if applicable, the amount specified in § 35-37.D below. As used in this section "eligible" refers to retirement allowances which members could receive if application were made whether or not the member, in fact, applies. In the event that the Virginia Retirement System retirement age or ages is reduced below that specified as of July 1, 1975, with the result that members of the County System are eligible to

receive additional benefits as members of the State System, their allowances under this section shall be reduced by the amount of such additional benefits. However, his allowance under this section shall not be reduced as a result of any other increase in benefits under the State System.

D. Upon service retirement on or after July 1, 1975, of a member who has made the election and the contribution provided for in § 35-30, he shall receive an annual retirement allowance, payable monthly to him for life, equal to two and one-eighth percent (2.125%) of his average final compensation multiplied by his years of prior service credit and reduced by that part of the annual early or normal retirement allowance for which the member is eligible under formula A of the Virginia Retirement System as it exists on July 1, 1975, for such years of prior service credit. As used in this section "eligible" refers to retirement allowances which members could receive if application were made whether or not the member, in fact, applies. In the event that the Virginia Retirement System retirement age or ages is reduced below that specified as of July 1, 1975, with the result that members of the County System are eligible to receive additional benefits as members of the State System, their allowances under this section shall be reduced by the amount of such additional benefits. However, his allowance under this section shall not be reduced as a result of any other increase in benefits under the State System.

E. *Early retirement.* Upon the service retirement of a member prior to his normal retirement date as provided in § 35-36.B, he shall receive an annual retirement allowance, payable monthly to him for life, determined as provided in subsection A or C, whichever is applicable, of this section based on his average final compensation and his accredited service as of his early retirement date, and shall be payable, at the option of the member:

1. Commencing on his early retirement date or the first of any month subsequent to submitting a written request to receive his retirement allowance but reduced by one-half of one percent (0.5%) for each full month by which the receipt of his monthly allowance his early retirement date precedes his normal retirement date;
2. Commencing at his normal retirement date after submitting a written request to receive his retirement allowance without such reduction;
3. Commencing at his early retirement date but without the one-half percent (0.5%) per month reduction if the member has attained age fifty-five (55) and completed thirty (30) years of service; or
4. Commencing at his early retirement date but reduced by one-half of one percent (0.5%) for each full month his retirement date precedes the date on which he would have attained age fifty-five (55) and completed thirty (30) years of service; or
5. Commencing at his early retirement date but without the one-half percent (0.5%) per month reduction if the member's years of service plus age equal at least eighty (80), provided he is an employee of the County.

F. The retirement allowance for service retirement under the provisions of § 35-37 shall be reduced by any compensation awarded to the member or retiree under the Virginia Workers' Compensation Act, whether such award is paid to the member or retiree in a lump sum or otherwise. Such reduction shall be made only for compensation awarded to cover any period of time for which the member or retiree is or will be receiving benefits under § 35-37. For purposes of this section, compensation awarded does not include reimbursement for medical expenses.

Nothing herein shall be construed to require any person to pay back into the System any money received before the effective date of this section. No person who has begun to receive an allowance under § 35-37 before June 23, 1990, shall be subject to this reduction.

(1-1-69; 3-6-76; Ord. No. 84-18, 6-2-84; Ord. No. 87-22, 8-15-87; Ord. No. 90-12, 7-1-90; Ord. No. 00-34, 11-1-00; Ord. No. 04-16, 6-26-04, effective 7-1-04; Ord. No. 12-13, 9-15-12)

**§ 35-38. Disability Retirement.**

Any member in service or on authorized leave without pay who has five (5) or more years of service may, at any time before his normal retirement date, retire on account of disability upon written application to the County Manager, made by the member or his appointing authority, setting forth at what time the retirement is to become effective, provided that such effective date shall be after the last day of service, but shall not be more than ninety (90) days prior to the execution and filing of such application. The County Manager shall accept the determination of the Medical Examining Board of the V.R.S.

(1-1-69; Ord. No. 83-6, 2-26-83; Ord. No. 84-18, 6-2-84; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04)

**§ 35-39. Disability Retirement Allowance.**

Upon retirement as provided in § 35-38, a member shall receive an annual retirement allowance payable monthly during his lifetime and continued disability which shall consist of five-eighths percent (0.625%) of his average final compensation, multiplied by his number of years of creditable service.

(1-1-69; 6-25-77)

**§ 35-40. Benefits Upon Withdrawal from Employment or Death.**

A. If a member has ceased to be an employee, other than by death or retirement under the provisions of this chapter, he shall be paid, on demand or as soon as practicable, the total amount of his contribution account unless he is eligible for a deferred vested retirement allowance as provided in subsection E, notwithstanding amounts in excess of \$1,000.00 shall not be distributed without the employee's written consent.

B. Should a member die, the amount of his accumulated contributions shall be paid in a lump sum to a designated beneficiary or, in the absence of a designated beneficiary, to his estate.

C. Should a person on retirement die, the amount of his accumulated contributions, reduced by the amount of any retirement allowance previously received by him, shall be paid in a lump sum to a designated beneficiary or, in the absence of a designated beneficiary, to his estate.

D. Beneficiary or change of beneficiary shall be designated by written notice by the member, or person, signed and filed with the County Manager.

E. If a member has ceased to be an employee after completion of five (5) or more years of service, the member will be eligible to receive a deferred vested retirement allowance commencing on the member's normal retirement date or at any earlier date pursuant to § 35-37 as they existed at the date of the member's withdrawal from service. Written application for payment of the allowance should be filed with the County Manager not earlier than sixty (60) days prior to the former member's retirement date. If a former member is reemployed by the employer and becomes a member of this System after having qualified for a deferred vested retirement allowance under this § 35-40.E, such former member shall have reinstated his service and compensation records in effect when service was broken.

F. This section applies to distributions other than the line of duty death benefit in § 35-45 herein made on or after January 1, 1993.

1. Notwithstanding any provision of this chapter to the contrary that would otherwise limit a distributee's election under this part, a distributee may elect, at the time and in the manner prescribed by the County Manager, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars (\$500.00) paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
2. *Definitions.* The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

“Eligible rollover distribution” means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Internal Revenue Code § 401(a)(9); and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution(s) that is reasonably expected to total less than two hundred dollars (\$200.00) during a year.

“Eligible retirement plan” Any one of the following that accepts the distributee's eligible rollover distribution: an individual retirement account described in Internal Revenue Code § 408(a), an individual retirement annuity described in Internal Revenue Code § 408(b), an annuity plan described in Internal Revenue Code § 403(a), a qualified plan described in Internal Revenue Code § 401(a), an annuity contract described in Internal Revenue Code § 403(b); an eligible deferred compensation plan described in Internal Revenue Code § 457(b) that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state; or effective for distributions made after December 31, 2007, a Roth IRA described in Internal Revenue Code § 408A, provided the eligible rollover distribution is considered a “qualified rollover contribution” under Internal Revenue Code § 408A(e). However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

“Distributee” includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse who is the alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code § 414(p), are distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2010, a distributee includes a non-spouse beneficiary of a deceased employee or former employee who may make an eligible rollover distribution in a direct trustee-to-trustee transfer to an "inherited" individual retirement account.

“Direct rollover” means a direct rollover or payment by this chapter to the eligible retirement plan specified by the distributee.

G. Notwithstanding any provision of this Chapter to the contrary, distributions to members and their beneficiaries shall be made in compliance with Internal Revenue Code § 401(a)(9) and regulations issued thereunder, including the incidental death benefit requirement of Internal Revenue Code § 401(a)(9)(G).

H. Notwithstanding anything in this Chapter to the contrary, the amount paid from the Retirement Allowance Account of a member for any limitation year for purposes of Internal Revenue Code § 415 shall not exceed the maximum permissible amount determined pursuant to the provisions of Internal Revenue Code § 415(b) applicable to governmental plans, as defined for purposes of such section. If the member's benefit for any limitation year would exceed such maximum permissible amounts, the benefit shall be reduced for such limitation year so that it will equal such maximum permissible amount.

I. Should a member reach his normal retirement date while an employee, the rights of the member to accrued benefits under this Chapter shall become nonforfeitable.

J. To the extent required by Section 401(a)(37) of the Internal Revenue Code for purposes of determining a member's entitlement to a death benefit under the Plan, in the event a member ceases to be an Employee in order to perform qualified military service within the meaning of section 414(u) of the Internal Revenue Code and dies on or after January 1, 2007 while performing qualified military service, the member's death shall be considered to have occurred while the member was an Employee so that his Beneficiaries are entitled to any additional benefits provided under the Plan (other than benefit accruals relating to the period of qualified military

service), including without limitation any additional or enhanced vesting or death benefits, had the member resumed employment with the Employer and then terminated employment on account of death. (1-1-69; 6-25-77; 6-24-78; Ord. No. 84-18, 6-2-84; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04; 11-06, 5-14-11; Ord. No. 13-08, 10-19-13; Ord. No. 17-11, 9-16-17)

#### **§ 35-41. Joint and Survivorship Options.**

A member may nominate a beneficiary and may elect by written application filed with the Board any time prior to his normal, early, ordinary or service-connected disability retirement, a joint life and survivorship pension of actuarial value equivalent to that of the annual retirement allowance to which he would otherwise be entitled as determined by the actuary. Such joint life and survivorship benefit shall be on the basis of a lifetime annual retirement allowance to the retired member with either a like amount of pension, two-thirds (2/3) or one-half (1/2) thereof being continued to his beneficiary if said beneficiary survives him. The annual retirement allowance payable monthly shall be determined on the basis of equivalent actuarial values according to the ages, at the member's actual retirement date, of the member and of his beneficiary, and shall be payable as long as either lives. The payment of any retirement allowance in an optional form shall be calculated at the member's actual retirement date using the actuarial equivalent of the normal retirement allowance payable under the System using RP-2000 Healthy Annuitant With White Collar Adjustment projected with Scale AA to 2010 for mortality rates and 7.5% interest. The Retirement Board shall have the authority to change the mortality rate and/or interest rate and such rates shall be published in the System's annual valuation and are incorporated in the Code by reference. If so elected, the allowance shall be paid as long as:

A. The retired member lives, with either a like amount of pension, two-thirds (2/3) or one-half (1/2) thereof continued for as long as the beneficiary lives after the death of the retired member. The election shall remain in effect if the member dies subsequent to his normal retirement date even though prior to this actual retirement date.

B. The beneficiary lives, but upon the death of the beneficiary prior to the death of the member, the option will be cancelled and the amount of the unreduced pension will become payable the first of the month following notification of the death to the System. If the beneficiary dies before the member has actually retired, the election will be void and the member will be treated as though he has made no election.

C. Notwithstanding any other provision to the contrary, any retired member who elects the joint and survivorship pension option may, with the consent of the person nominated to receive the option, cancel such option. Such option may also be cancelled pursuant to court order in a case in which the person nominated is a party. In the event of either cancellation, the retirement allowance paid to the member in the period after the effective date of the cancellation will be the same as if the member had not elected a joint life and survivorship pension option.

The provisions of this chapter are to become effective as of January 1, 1969, and the benefits hereunder to begin as of April 1, 1969.

(1-1-69; 6-20-81; Ord. No. 90-12, 7-1-90; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 05-10, 7-12-05; Ord. No. 13-08, 10-19-13; Ord. No. 21-21, 11-13-2021)

#### **§ 35-42. Vesting on termination of system; Nonreversion of funds.**

It shall be impossible at any time prior to satisfaction of all liabilities with respect to employees and benefits under the Trust for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of the employees and their beneficiaries. Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of all members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, are nonforfeitable.

(1-1-69; 11-6-71; Ord. No. 13-08, 10-19-13)

#### **§ 35-43. Minimum Retirement Allowance.**

A. Except as provided in subparagraph B, any beneficiary who receives benefits pursuant to this chapter shall after February 8, 1981, receive a retirement allowance which shall be the greater amount of: (i) the

allowance determined in accordance with the provisions of this chapter together with the allowance payable to the member pursuant to the Virginia Retirement System, or (ii) the allowance such member would have received had he been a member of the Arlington County Supplemental Retirement System--II (Chapter 46), provided that the retirement allowance adjustment determined pursuant to § 46-49.B shall be five percent (5%) for each year prior to 1974 for which an adjustment is required.

B. A beneficiary who receives benefits pursuant to § 35-37.E shall, after February 8, 1981, receive a retirement allowance which shall be the greater amount of: (i) the allowance determined in accordance with the provisions of § 35-37.E, or (ii) the allowance determined in accordance with the provisions of §§ 46-38.B and 46-49.B, provided that in determining the reduction to be used in § 46-38.B, the reduction shall be one-half of one percent (0.5%) for each full month by which his actual retirement date preceded his normal or unreduced early retirement date.

(1-1-69; 10-21-70; 2-8-81; Ord. No. 84-18, 6-2-84; Ord. No. 00-34, 11-1-00)

#### **§ 35-44. Effect on Retirement Allowance of Returning to Work.**

A. Should a beneficiary of a retirement allowance return to service as an Employee of the School Board, he shall become a member of the System and shall thereafter contribute. Any service on the basis of which his retirement allowance was computed shall thereafter be counted as creditable service. Upon return to service, such member's retirement allowance shall cease.

Should a beneficiary retired pursuant to §35-36 return to service as an Employee of an Employer other than the School Board, he shall have the option to: (1) become a member of the System and their retirement allowance will cease or (2) participate in the deferred compensation plan provided for in §46-27 and their retirement allowance will continue.

B. Any excess accumulated contribution of such beneficiary over the retirement allowances received by him shall be transferred from the retirement allowance account to the member's contribution account.

C. If the amount of retirement allowances received by him exceeds his accumulated contributions, the excess allowances over contributions shall not be transferred to the contribution account.  
(Ord. No. 82-33, 8-7-82; Ord. No. 12-13, 9-15-12)

#### **§ 35-45. Line of Duty Death Benefit.**

A. *Definitions.* The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

“Base salary” means an employee's base rate of pay according to the County Board adopted pay plan, including any market adjustments under the pay plan.

“Beneficiary” means, for purposes of § 35-45, that person or persons designated by the member to receive life insurance proceeds from the life insurance policy provided or made available by the employer.

“Direct and proximate result” means that result which is the natural and probable consequence of the antecedent events.

“Line of duty” means on the job in the service of the member's employers. Line of duty does not mean going to or from work (including between any parking lot or transportation terminal and the employee's work place), going to or from meals or breaks, or time spent while "on call" or on stand-by status unless the employee is involved in a specific work-related duty during such period.

“Personal injury” means any traumatic injury as well as diseases which are caused by or result from such an injury, excluding occupational diseases and diseases of ordinary life. The term personal injury excludes any personal injury caused or contributed to by the intentional misconduct or negligence of the member or beneficiary as

well as suicide. The term personal injury also excludes any injury caused or contributed to by the member's consumption of alcohol or illegal drugs.

"Traumatic injury" means a wound or other condition of the body caused by external force, including injuries inflicted by bullets, explosives, smoke inhalation, sharp or blunt instruments or objects, physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain. Death from heart attacks, strokes and similar diseases resulting from chronic, congenital or progressive cardiac and/or pulmonary conditions are not compensable unless a traumatic injury was a substantial factor in the death. Heart attacks and stroke shall be presumed to be caused by a traumatic injury where such heart attacks and stroke were substantially caused by arduous and strenuous physical work-related activity.

B. The beneficiary of any member who dies in the line of duty shall receive a payment of four (4) times the member's base salary at the time of death, up to a maximum of two hundred fifty thousand dollars (\$250,000.00). Such payment may be received by the beneficiary only after the payment is approved by the County Manager as set forth below. Following approval by the County Manager, the beneficiary may elect to receive the payment either in one (1) lump sum or in four (4) equal installments; the first installment to be made after approval of the application for payment by the County Manager and the remaining three (3) installments annually thereafter. In the event that there is more than one (1) beneficiary, no election by beneficiaries is allowed and payment shall be of the full payment only, divided between or among the beneficiaries in the same manner which the member has designated for the life insurance policy provided by or made available by the employer.

The beneficiary(ies) may apply for payment within one hundred eighty (180) days of the member's death by making application to the County Manager. The County Manager may adopt procedures for making and evaluating applications for this benefit. The County Manager shall approve payment under this section only after finding that the member has died as the direct and proximate result of a personal injury sustained in the line of duty.

Before approving any application, the County Manager must receive a written certification from the medical advisor that the member has died as the direct and proximate result of a personal injury identified by the medical advisor and the County's legal advisor certifies that all the requirements of this section have been met.

The two hundred fifty thousand dollar (\$250,000.00) maximum established under this section shall be increased by the same amount as the annual cost of living adjustment made by the Arlington County Board for the Arlington County Employees' Pay Plan, beginning with the adjustment made effective July 1, 1991.\*

The benefit payable under this section shall be reduced by any amount awarded for an accidental death occurring in the line of duty by the V.R.S., whether by an insurance policy or otherwise.

Notwithstanding any of the foregoing, where the County Manager finds that an employee's death, as the direct and proximate result of a personal injury, was intentionally caused by a third party because the third party was motivated to cause the employee's death because the employee performed a particular duty within the employee's scope of employment, such death shall be considered to have occurred in the line of duty whether or not it occurred on the job.

\*Effective July 1, 2000, the two hundred fifty thousand dollars (\$250,000.00) line of duty benefit increased by the annual cost of living adjustment equaled two hundred ninety thousand three hundred sixty-three dollars (\$290,363.00).

(Ord. No. 90-12, 7-1-90; Ord. No. 90-36, 1-1-91; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04)

#### **§ 35-46. Maximum Permissible Benefit.**

Notwithstanding anything in this chapter to the contrary, the annual benefit otherwise payable at any time to a member under this chapter shall not exceed the maximum permissible amount determined pursuant to the provisions of Internal Revenue Code § 415 applicable to governmental plans, as defined for purposes of such section. If the benefit the member would otherwise accrue in a limitation year (as defined for purposes of such

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section) would produce an annual benefit in excess of such maximum permissible amount, the rate of accrual shall be reduced so that the annual benefit will equal such maximum permissible amount. The provisions of Internal Revenue Code § 415 are herein incorporated by reference.  
(Ord. No. 00-34, 11-1-00; 13-08, 10-19-13; Ord. No. 17-11, 9-16-17)