
VIRGINIA STATE BUDGET

2012 Special Session I

Budget Bill - HB1301 (Chapter 3)

Bill Order » Central Appropriations » Item 468

Central Appropriations

Item 468	First Year - FY2013	Second Year - FY2014
Compensation and Benefit Adjustments (75700)	\$86,887,372	\$155,366,859
Adjustments to Employee Compensation (75701)	-\$10,533,020	-\$10,533,020
Adjustments to Employee Benefits (75702)	\$86,887,372	\$100,699,036
Fund Sources:		
General	\$86,887,372	\$155,366,859

Authority: Discretionary Inclusion.

A. Transfers to or from this Item may be made to decrease or supplement general fund appropriations to state agencies for:

1. Adjustments to base rates of pay;
2. Adjustments to rates of pay for budgeted overtime of salaried employees;
3. Salary changes for positions with salaries listed elsewhere in this act;
4. Salary changes for locally elected constitutional officers and their employees;
5. Employer costs of employee benefit programs when required by salary-based pay adjustments;
6. Salary changes for local employees supported by the Commonwealth, other than those funded through appropriations to the Department of Education; and
7. Adjustments to the cost of employee benefits to include but not limited to health insurance premiums and retirement and related contribution rates.

B. Transfers from this Item may be made when appropriations to the state agencies concerned are insufficient for the purposes stated in paragraph A of this Item, as determined by the Department of Planning and Budget, and subject to guidelines prescribed by the department. Further, the Department of Planning and Budget may transfer appropriations within this Item from the second year of the biennium to the first year, when necessary to accomplish the purposes stated in paragraph A of this Item.

C. Except as provided for elsewhere in this Item, agencies supported in whole or in part by nongeneral fund sources, shall pay the proportionate share of changes in salaries and benefits as required by this Item, subject to the rules and regulations prescribed by the appointing or governing authority of such agencies. Nongeneral fund revenues and balances required for this purpose are hereby appropriated.

D. The Governor is hereby authorized to transfer funds from agency appropriations to the accounts of participating state employees in such amounts as may be necessary to match the contributions of the qualified participating employees, consistent with the requirements of the Code of Virginia governing the deferred compensation cash match program. Such transfers shall be made consistent with the following:

1. The maximum cash match provided to eligible employees shall not be less than \$20.00 per pay period, or \$40.00 per month, in each year of the biennium. The Governor may direct the agencies of the Commonwealth to utilize funds contained within their existing appropriations to meet these requirements.
2. The Governor may direct agencies supported in whole or in part with nongeneral funds to utilize existing agency appropriations to meet these requirements. Such nongeneral revenues and balances are hereby appropriated for this purpose, subject to the provisions of § 4-2.01 b of this act. The use of such nongeneral funds shall be consistent with any existing conditions and restrictions otherwise placed upon such nongeneral funds.
3. Employees who are otherwise eligible but whose 403 (b) provider does not participate in the cash match program by establishing a 401 (a) account are ineligible to receive a cash match.
4. The procurement of services related to the implementation of this program shall be governed by standards set forth in § 51.1-124.30 C, Code of Virginia, and shall not be subject to the provisions of Chapter 7 (§ 11-35 et seq.), Title 11, Code of Virginia.

E. The Secretary of Administration, in conjunction with the Secretary of Finance, may establish a program that allows for the sharing of cost savings from improved productivity, efficiency, and performance with agencies and employees. Such gain sharing programs require a management philosophy of open communication encouraging employee participation; a system which seeks, evaluates and implements employee input on increasing productivity; and a formula for measuring productivity gains and sharing these gains between employees and the agency. The Department of Human Resource Management, in conjunction with the Department of Planning and Budget, shall develop specific gain sharing program guidelines for use by agencies. The Department of Human Resource Management shall provide to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees an annual report no later than October 1 of each year detailing identified savings and their usage.

F.1. Out of the appropriation for this Item, amounts estimated at \$44,172,400 the first year and \$56,126,860 the second year from the general fund shall be transferred to state agencies and institutions of higher education to support the general fund portion of costs associated with changes in the employer's share of premiums paid for the Commonwealth's health benefit plans.

2. Out of the amounts included in subparagraph 1, \$526,849 the first year and \$526,849 the second year from the general fund shall be transferred to the University of Virginia to cover the state share of the increases in employer premiums for state employees participating in the University of Virginia's health care plan.

3. Notwithstanding any contrary provision of law, the health benefit plans for state employees resulting from the additional funding in this Item shall allow for a portion of employee medical premiums to be charged to employees.

4. The Department of Human Resource Management shall explore options within the health insurance plan for state employees to promote value-based health choices aimed at creating greater employee satisfaction with lower overall health care costs. It is the General Assembly's intent that any savings associated with this employee health care initiative be retained and used towards funding state employee salary or fringe benefit cost increases.

5. Notwithstanding any other provision of law, it shall be the sole responsibility and authority of the Department of Human Resource Management to establish and enforce employer contribution rates for any health insurance plan

established pursuant to § [2.2-2818](#), Code of Virginia.

6. The Department of Human Resource Management is prohibited from establishing a retail maintenance network for maintenance drugs that includes penalties for non-use of the retail maintenance network. As an alternative, the Department shall include in the upcoming request for proposal a requirement that the successful bidder provide, upon request of the Department, all claims-related financial and utilization information relating to the provision of benefits and all other financial and utilization information relating to benefits to covered individuals. This information shall include information on the nature, type, and amount of all other revenue received in aggregate from pharmaceutical manufacturers or labelers for programs relating to benefits to covered individuals of the State Employee Health Plan.

G.1. Contribution rates paid to the Virginia Retirement System for the retirement benefits of public school teachers, state employees, state police officers, state judges, and state law enforcement officers eligible for the Virginia Law Officers Retirement System shall be based on a valuation of retirement assets and liabilities that are consistent with the provisions of Senate Bill 498 and House Bill 1130.

2. Retirement contribution rates for the first year and the second year, excluding the five percent employee portion, shall be: 11.66 percent for public school teachers, 8.76 percent for state employees, 24.74 percent for state police officers, 14.80 percent for the Virginia Law Officers Retirement System, and 45.44 percent for the Judicial Retirement System. These rates include both the regular contribution rate and the rate calculated by the Virginia Retirement System actuary for the 10-year payback of the retirement contribution payments deferred for the 2010-12 biennium.

3. Payments to the Virginia Retirement System shall be made no later than the tenth day following the close of each month of the fiscal year.

4. Out of the general fund appropriation for this Item is included \$42,161,373 the first year and \$43,994,437 the second year to support the general fund portion of the net costs resulting from changes in employer contributions for state employee retirement as provided for in this paragraph.

5. The funding necessary to support the cost of reimbursements to Constitutional Officers for retirement contributions are appropriated elsewhere in this act under the Compensation Board.

6. The funding necessary to support the cost of the employer retirement contribution rate for public school teachers is appropriated elsewhere in this act under Direct Aid to Public Education.

H.1. Except as authorized in Paragraph H.2. of this Item, rates paid to the VRS on behalf of employees of participating (i) counties, (ii) cities, (iii) towns, (iv) local public school divisions (only to the extent that the employer contribution rate is not otherwise specified in this act), and (v) other political subdivisions shall be based on the higher of: a) the contribution rate in effect for FY 2012, or b) seventy percent of the results of the June 30, 2011 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2012-14 biennium, eighty percent of the results of the June 30, 2013 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2014-16 biennium, ninety percent of the results of the June 30, 2015 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2016-18 biennium, one-hundred percent of the results of the June 30, 2017 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2018-20 biennium.

2. Rates paid to the VRS on behalf of employees of participating (i) counties, (ii) cities, (iii) towns, (iv) local public school divisions (only to the extent that the employer contribution rate is not otherwise specified in this act), and (v) other political subdivisions may, at each participating employers option, be based on the employer contribution rates certified by the Virginia Retirement System (VRS) Board of Trustees pursuant to § [51.1-145\(I\)](#), Code of

Virginia.

3. Every participating employer must certify to the board of the Virginia Retirement System by resolution adopted by its local governing body that it: has reviewed and understands the information provided by the Virginia Retirement System outlining the potential future fiscal implications of electing or not electing to utilize the employer contribution rates certified by the Virginia Retirement System (VRS) Board of Trustees, as provided for in paragraph H.2.

4. Prior to electing to utilize the employer contribution rates certified by the Virginia Retirement System (VRS) Board of Trustees, as authorized in paragraph H.2, local public school divisions must receive the concurrence of the local governing body. Such concurrence must be documented by a resolution of the governing body.

5. The board of the Virginia Retirement System shall provide all employers participating in the Virginia Retirement System with a summary of the implications inherent in the use of the employer contribution rates certified by the Virginia Retirement System (VRS) Board of Trustees set out in paragraph H.2, and the alternate employer contribution rates set out in paragraph H.1

I. The Virginia Retirement System Board of Trustees shall account for the employer retirement contribution payments deferred for the 2010-2012 biennium based on limiting employer retirement contributions to the Virginia Retirement System to the actuarial normal cost. In setting the employer retirement contribution rates for subsequent biennia, the board shall calculate a separate, supplemental employer contribution rate that will amortize such deferred payments over a period of ten years using the board's assumed long-term rate of return. The Governor shall include funds to support payment of such board-approved, supplemental employer contribution rates in the budget submitted to the General Assembly.

J.1. Contribution rates paid to the Virginia Retirement System for other employee benefits to include the public employee group life insurance program, the Virginia Sickness and Disability Program, the state employee retiree health insurance credit, and the public school teacher retiree health insurance credit, shall be based on a valuation of assets and liabilities that assume an investment return of eight percent and an amortization period of 30 years.

2. Contribution rates paid on behalf of public employees for other programs administered by the Virginia Retirement System in the first year and the second year shall be: 1.19 percent for the state employee group life insurance program, 0.48 percent for the employer share of the public school teacher group life insurance program, 0.47 percent for the Virginia Sickness and Disability Program, 1.00 percent for the state employee retiree health insurance credit, and 1.11 percent for the public school teacher retiree health insurance credit.

3. The funding necessary to support the cost of reimbursements to Constitutional Officers for public employee group life insurance contributions is appropriated elsewhere in this act under the Compensation Board.

4. The funding necessary to support the cost of the employer public school teacher group life insurance and retiree health insurance credit rates is appropriated elsewhere in this act under Direct Aid to Public Education.

K. Notwithstanding the provisions of § [2.2-3205\(A\)](#), Code of Virginia, the terminating agency shall not be required to pay the Virginia Retirement System the costs of enhanced retirement benefits provided for in § [2.2-3204\(A\)](#), Code of Virginia. Instead, the entire cost of such benefits for involuntarily separated employees shall be factored into the employer contribution rates paid to the Virginia Retirement System.

L. The purpose of this paragraph is to provide a transitional severance benefit, under the conditions specified, to eligible city, county, school division or other political subdivision employees who are involuntarily separated from employment with their employer.

1.a. "Involuntary separation" includes, but is not limited to, terminations and layoffs from employment with the

employer, or being placed on leave without pay-layoff or equivalent status, due to budget reductions, employer reorganizations, workforce downsizings, or other causes not related to the job performance or misconduct of the employee, but shall not include voluntary resignations. As used in this paragraph, a "terminated employee" shall mean an employee who is involuntarily separated from employment with his employer.

b. The governing authority of a city, county, school division or other political subdivision electing to cover its employees under the provisions of this paragraph shall adopt a resolution, as prescribed by the Board of Trustees of the Virginia Retirement System, to that effect. An election by a school division shall be evidenced by a resolution approved by the Board of such school division and its local governing authority.

2.a. Any (i) "eligible employee" as defined in § 51.1-132, (ii) "teacher" as defined in § 51.1-124.3, and (iii) any "local officer" as defined in § 51.1-124.3 except for the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, and (a) for whom reemployment with his employer is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this paragraph. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

b. Eligibility shall commence on the date of involuntary separation.

3.a. On his date of involuntary separation, an eligible employee with (i) two years' service or less to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary; (ii) three years through and including nine years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary plus one additional week of salary for every year of service over two years; (iii) ten years through and including fourteen years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to twelve weeks of salary plus two additional weeks of salary for every year of service over nine years; or (iv) fifteen years or more of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to two weeks of salary for every year of service, not to exceed thirty-six weeks of salary.

b. Transitional severance benefits shall be computed by the terminating employer's payroll department. Partial years of service shall be rounded up to the next highest year of service.

c. Transitional severance benefits shall be paid by the employer in the same manner as normal salary. In accordance with § 60.2-229, transitional severance benefits shall be allocated to the date of involuntary separation. The right of any employee who receives a transitional severance benefit to also receive unemployment compensation pursuant to § 60.2-100 et seq. shall not be denied, abridged, or modified in any way due to receipt of the transitional severance benefit; however, any employee who is entitled to unemployment compensation shall have his transitional severance benefit reduced by the amount of such unemployment compensation. Any offset to a terminated employee's transitional severance benefit due to reductions for unemployment compensation shall be paid in one lump sum at the time the last transitional severance benefit payment is made.

d. For twelve months after the employee's date of involuntary separation, the employee shall continue to be covered under the (i) health insurance plan administered by the employer for its employees, if he participated in such plan prior to his date of involuntary separation, and (ii) group life insurance plan administered by the Virginia Retirement System pursuant to Chapter 5 (§ 51.1-500 et seq.) of Title 51.1, or such other group life insurance plan as may be administered by the employer. During such twelve months, the terminating employer shall continue to pay its share of the terminated employee's premiums. Upon expiration of such twelve month period, the terminated employee shall be eligible to purchase continuing health insurance coverage under COBRA.

e. Transitional severance benefit payments shall cease if a terminated employee is reemployed or hired in an

individual capacity as an independent contractor or consultant by the employer during the time he is receiving such payments.

f. All transitional severance benefits payable pursuant to this section shall be subject to applicable federal laws and regulations.

4.a. In lieu of the transitional severance benefit provided in subparagraph 3 of this paragraph, any otherwise eligible employee who, on the date of involuntary separation, is also (i) a vested member of the Virginia Retirement System, including a member eligible for the benefits described in subsection B of § 51.1-138, and (ii) at least fifty years of age, may elect to have the employer purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, including a member eligible for the benefits described in subsection B of § 51.1-138, who is eligible for unreduced retirement shall be added to his creditable service and not his age. The cost of each year of age or creditable service purchased by the employer shall be equal to fifteen percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the employer shall be equal to the quotient obtained by dividing (i) the cash value of the benefits to which the employee would be entitled under subparagraphs 3.a. and 3.d. of this paragraph by (ii) the cost of each year of age or creditable service. Partial years shall be rounded up to the next highest year. Deferred retirement under the provisions of subsection C of §§ 51.1-153 and 51.1-205, and disability retirement under the provisions of § 51.1-156 et seq., shall not be available under this paragraph.

b. In lieu of the (i) transitional severance benefit provided in subparagraph 3 of this paragraph and (ii) the retirement program provided in this subsection, any employee who is otherwise eligible may take immediate retirement pursuant to §§ 51.1-155.1 or 51.1-155.2.

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

d. The retirement program provided in this subparagraph shall be otherwise governed by policies and procedures developed by the Virginia Retirement System.

e. Costs associated with the provisions of this subparagraph shall be factored into the employer contribution rates paid to the Virginia Retirement System.

M.1. All classified employees of the Executive Branch and other full-time employees of the Commonwealth, except elected officials, who were employed on April 1, 2012, and remain employed until at least November 24, 2012, shall receive a one-time bonus payment equal to three percent of base pay on December 1, 2012, contingent upon additional general fund resources equaling or exceeding \$77,200,000 from the combination of actual general fund revenue collections for fiscal year 2012 exceeding the official fiscal year 2012 revenue estimate contained in the first enactment of the 2010-12 appropriations act, as amended by the 2012 session of the General Assembly, and by any discretionary unspent general fund appropriations recommended by the Governor for reversion at the end of fiscal year 2012. In the event that the total of all funds provided for in this paragraph are insufficient to fully fund the general fund cost of the three percent one-time bonus payment, such bonus payment shall be prorated to a percent of base pay for the general fund payroll that equates to the amount of total general fund resources provided.

a. Employees in the Executive Department subject to the Virginia Personnel Act shall receive the bonus payment authorized in this paragraph only if they have attained an equivalent rating of at least "Meets Expectations" on their performance evaluation and have no active written notices under the Standards of conduct for the preceding review period.

2. For purposes of paying the general fund share of the December 1, 2012, one-time bonus, after meeting all Constitutionally-required deposits to the Revenue Stabilization Fund, the State Comptroller shall reserve \$77,200,000 in the Restricted Fund Balance on the balance sheet for the general fund attributable to fiscal year 2012 general fund revenue collections in excess of the official revenue estimate and discretionary general fund balances recommended for reversion by the Governor, prior to designating amounts for the Committed Fund Balance.

3. The Director of the Department of Planning and Budget shall administratively increase nongeneral fund appropriations as required to implement the one-time bonus payment.

N. Any supplemental salary payment to a state employee or class of state employees by a local governing body shall be governed by a written agreement between the agency head of the employee or class of employees receiving the supplement and the chief executive officer of the local governing body. Such agreement shall also be reviewed and approved by the Director of the State Department of Human Resource Management. At a minimum, the agreement shall specify the percent of state salary or fixed amount of the supplement, the resultant total salary of the employee or class of employees, the frequency and method of payment to the agency of the supplement, and whether or not such supplement shall be included in the employee's state benefit calculations. A copy of the agreement shall be made available annually to all employees receiving the supplement. The receipt of a local salary supplement shall not subject employees to any personnel or payroll rules and practices other than those promulgated by the State Department of Human Resource Management.

O. The Governor is hereby authorized to allocate a sum of up to \$54,667,823 from this appropriation to the extent necessary to offset any downward revisions of the general fund revenue estimate prepared for fiscal years 2013 and 2014 after the enactment by the General Assembly of the 2012 Appropriation Act. If the general fund revenue estimates prepared subsequent to the 2012 General Assembly Session do not result in downward revisions and, if within 5 days of the preliminary close of the fiscal year ending on June 30, 2013, the Comptroller's analysis does not determine that a revenue re-forecast is required pursuant to § 2.2-1503.3, Code of Virginia, then such appropriation shall be used only for employee compensation purposes as stated in paragraphs P, Q and R below.

P.1. Contingent on the provisions of paragraph O. above, the base salary of the following employees shall be increased by two percent on July 10, 2013, for state employees:

- a. Full-time and other classified employees of the Executive Department subject to the Virginia Personnel Act;
- b. Full-time employees of the Executive Department not subject to the Virginia Personnel Act, except officials elected by popular vote;
- c. Any official whose salary is listed in § 4-6.01 of this act, subject to the ranges specified in the agency head salary levels in § 4-6.01 c; and
- d. Full-time professional staff of the Governor's Office, the Lieutenant Governor's Office, the Attorney General's Office, Cabinet Secretaries Offices, including the Deputy Secretaries, the Virginia Liaison Office, and the Secretary of the Commonwealth's Office.
- e. Heads of agencies in the Legislative Department;
- f. Full-time employees in the Legislative Department, other than officials elected by popular vote; and
- g. Secretaries and administrative assistants as provided for in Item 1 of this act.
- h. Judges and Justices in the Judicial Department;

i. Heads of agencies in the Judicial Department; and,

j. Full-time employees in the Judicial Department.

k. Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission, the Executive Directors of the Virginia College Savings Plan and the Virginia Office for Protection and Advocacy, and the Directors of the State Lottery Department, and the Virginia Retirement System;

l. Full-time employees of the State Corporation Commission, the Virginia College Savings Plan, the State Lottery Department, Virginia Workers' Compensation Commission, the Virginia Retirement System, and Virginia Office for Protection and Advocacy.

2.a. Employees in the Executive Department subject to the Virginia Personnel Act shall receive the salary increases authorized in this paragraph only if they attained at least a rating of "Contributor" on their latest performance evaluation.

b. Salary increases authorized in this paragraph for employees in the Judicial and Legislative Departments, employees of Independent agencies, and employees of the Executive Department not subject to the Virginia Personnel Act shall be consistent with the provisions of this paragraph, as determined by the appointing or governing authority. The appointing or governing authority shall certify to the Department of Human Resource Management that employees receiving the awards are performing at levels at least comparable to the eligible employees as set out in subparagraph 2.a. of this paragraph.

3. The Department of Human Resource Management shall increase the minimum and maximum salary for each band within the Commonwealth's Classified Compensation Plan by two percent on July 10, 2013. No salary increase shall be granted to any employee as a result of this action. The department shall develop policies and procedures to be used in instances where employees fall below the entry level for a job classification due to poor performance. Movement through the revised pay band shall be based on employee performance.

4. Out of the amounts for Supplements to Employee Compensation is included \$39,116,546 the second year from the general fund to support the general fund portion of costs associated with the salary increase provided in this paragraph.

5. The following agency heads, at their discretion, may utilize agency funds or the funds provided pursuant to this paragraph to implement the provisions of existing pay plans:

a. The heads of agencies in the Legislative and Judicial Departments;

b. The Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission;

c. The Attorney General;

d. The Director of the Virginia Retirement System;

e. The Director of the State Lottery Department;

f. The Director of the University of Virginia Medical Center;

g. The Executive Director of the Virginia College Savings Plan;

h. The Executive Director of the Virginia Port Authority; and

i. The Executive Director of the Virginia Office for Protection and Advocacy.

Q. The base rates of pay, and related employee benefits, for wage employees may be increased by up to two percent no earlier than July 10, 2013. The cost of such increases for wage employees shall be borne by existing funds appropriated to each agency.

R.1. Contingent on the provisions of paragraph O. above, the base salary of the following employees shall be increased by two percent on August 1, 2013:

a. Locally elected constitutional officers;

b. General Registrars and members of local electoral boards;

c. Full-time employees of locally elected constitutional officers; and,

d. Full-time employees of Community Services Boards, Centers for Independent Living, secure detention centers supported by Juvenile Block Grants, juvenile delinquency prevention and local court service units, local social services boards, local pretrial services act and comprehensive community corrections act employees, and local health departments where a memorandum of understanding exists with the Virginia Department of Health.

2. Out of the appropriation for Supplements to Employee Compensation is included \$15,551,277 the second year from the general fund to support the costs associated with the salary increase provided in this paragraph.