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701. System created

(a) There shall be and is hereby created a retirement and benefit system for officials and employees of the Government of the United States Virgin Islands and for their dependents and beneficiaries, for the payment of retirement annuities, disability annuities, and other benefits as provided herein to said officials and employees, and to their dependents and beneficiaries, after stated periods of service and upon fulfillment of certain conditions as hereinafter set forth.

(b) The purpose of such system is to encourage qualified personnel to enter and remain in the service of the Government of the United States Virgin Islands by establishing an orderly means whereby those who become superannuated or otherwise incapacitated as the result of age or disability, may be retired from service without prejudice and without inflicting a hardship upon the employees retired, and to enable such employees to accumulate reserves for themselves, their dependents and their beneficiaries, to provide for old age, death, disability and termination of employment, thus promoting economy and efficiency in the administration of government.

(c) The system created under this chapter shall have the powers and privileges of a corporation, subject, as provided herein, to the control of the Board of Trustees thereof, and shall be known and designated as the Government Employees Retirement System ~~of the Government~~ of the Virgin Islands. By such name all its business shall be transacted, all of its money shall be invested, and all its cash and securities and other property shall be held. The debts, obligations, contracts, bonds, notes, debentures, receipts, expenditures, accounts, funds, facilities, and property of the system are those of the system and not those of the Government of the Virgin Islands or of any office, bureau, department, agency, commission, municipality, branch, agent, officer, or employee thereof.

(d) The system shall become operative as of October 1, 1959, at which time contributions by the employees and employer, pursuant to the provisions hereof, shall begin. Such date shall be known as the date of establishment. Retirement, disability, death benefit and all other payments by the system shall begin to accrue from the date of establishment.

(e) All pensions and benefits granted prior to the date of establishment shall be paid according to the laws under which the same were granted. All claims for pensions and benefits which may be pending on the date of establishment, shall be granted in accordance with the provisions of the aforesaid legislation; Provided, however, That no person who, on the date this chapter becomes effective, is entitled to a pension or other benefit under the provisions of any other law, shall receive a lesser amount under this chapter than he would have received if he had been paid according to the provisions of said other law.

(f) Notwithstanding any other provision of law, the system is not required to pay any taxes or assessments on any of the property acquired or to be acquired by it, or on its operations or activities, or on the income derived from its investments or from any of its operations or activities.

(g) The Board shall provide the Legislature with an analysis of the assets and liability implications of each bill that would affect the investment strategy of the system, the funding of the system, or the benefit structure of this system. The analysis shall include an explanation of

the methodology employed and the assumptions used in its preparation. The Legislature shall provide the necessary funding for the analysis of the system for bills proposed by the Legislature.

702. Definitions

Words and phrases wherever used in this chapter, unless a different meaning is plainly expressed in the context or a different definition has been provided elsewhere in the chapter, shall have the following meanings

(a) System shall mean the Government Employees Retirement System of the ~~Government of the United States~~ Virgin Islands.

(b) Government shall mean the Government of the United States Virgin Islands and its agencies and instrumentalities.

(c) Employer shall mean the Government of the Virgin Islands and its agencies and instrumentalities including all autonomous and semiautonomous agencies of the Government of the Virgin Islands.

(d) Board shall mean the Board of Trustees provided for herein to administer the system.

(e) Employee shall mean an official or employee in the service of the employer who is employed by the employer for compensation.

(f) Member shall mean any employee included in the membership of the system and participating therein as herein provided.

(g) Service shall mean employment as an employee of the employer for salary, wages or compensation.

(h) Prior service shall mean service as an employee of the employer prior to ~~the date of establishment~~October 1, 1959.

(i) Membership service shall mean service as an employee of the employer on and after October 1, 1959~~the date of establishment~~ while a member of the system.

(j) Credited service shall mean prior service and membership service as herein provided.

(k) Regular interest shall mean interest at such rate as shall be determined by the Board from the experience of the system which shall be not less than two percent nor more than four percent per annum. For the first five fiscal years of operations of the system regular interest shall be at the rate of three percent per annum.

(*l*) Accumulated contributions shall mean the amounts contributed by a member as a deduction from compensation, without interest.

(m) Military service shall mean service in any of the armed services of the United States.

(n) Compensation shall mean amounts received as pay, salary or remuneration for services rendered, provided that the maximum amount of compensation to be used for contributions by

the members or in the computation of any annuity or benefit hereunder shall be $65,000. Overtime pay or compensation for special services shall not be included as compensation.

(o) Average compensation shall mean the average rates of annual compensation for any five highest years of credited service within the last ten years of service, subject to the maximum salary limitations in effect during such service.

(p) In service shall mean: (a) actual employment as an employee for partial or total compensation; (b) an employee in military service; or (c) an employee on leave of absence approved by the employer on account of sickness, disability or other cause provided such leave of absence shall not have extended continuously for more than one year prior to the date of establishment.

(q) Retirement shall mean the acceptance of a retirement annuity by a member upon withdrawal from service of the employer.

(r) Withdrawal from service shall mean complete severance of employment of any member as an employee of the employer, by resignation, discharge, dismissal or death.

(s) Fiscal year shall mean the period beginning on October 1 in any year and ending on September 30th of the subsequent year.

(t) The masculine pronoun, wherever used, shall include the feminine pronoun.

(u) Policeman means employees in the Division of Police and Prison of the U.S. Virgin Islands Police Department (V.I.P.D.) who perform traditional police duties or direct others in the performance of these duties, and excludes all other employees in such Division, such as cadets, clerical and housekeeping employees.

(v) Prison guard or corrections officer means employees in the Bureau of Corrections and the Department of Human Services who perform traditional correctional officer and supervisory correctional officer duties. This definition does not include any others in such Bureau or Department, such as clerical, housekeeping and food service employees or other supervisory or managerial personnel.

(w) Fireman means employees in the Division of Fire of the U.S. Virgin Islands Police Department (V.I.P.D.), and similar employees of the Virgin Islands Airport and Industrial Resources Agency, who perform traditional fire fighting or fire prevention duties or direct others in the performance of these duties and excludes all other employees in such Division or Agency, such as clerical and housekeeping employees.

(x) Eligible employee with the Virgin Islands Water and Power Authority means every production employee working within the power plant, every lineman or plant operator and his support-crew employees for a period of not less than five years as certified by the Executive Director of the Authority for the purposes of this subchapter only.

(y) Eligible employee working with chlorine, sewage or carcinogens means any person employed by the Government of the Virgin Islands certified by such department's chief executive officer or his designee as having worked continuously and directly for a period of at least five years with chlorine, sewage or a carcinogen as defined by the *Second Annual Report on*

Carcinogens published by the Public Health Service, U.S. Department of Health and Human Services, dated December 1981, as revised for the purposes of this subchapter only.

(z) Salary right shall mean compensation earned to include benefits or dues as a result of contract negotiations for the time of employment prior to separation from service.

703. Membership

The following persons shall be included as members:

(a) Any person who is an employee and in service on ~~September 30, 1959~~or after October 1, 1959, shall become a member as of the date of October 1, 1959~~establishment~~.

(b) Any person who becomes an employee on or after October 1, 1959~~the date of establishment~~ shall become a member as a condition of employment, provided such person is under age 55 on the date of appointment. Contributions by such person shall begin ~~upon completion of one month of service~~ immediately, provided that he shall be eligible for duty disability and death benefits from the first day of service subject to the qualifying conditions prescribed for the payment of such benefits.

(c) Any person whose position and salary are specifically fixed in the annual appropriation acts.

(d) Any person employed by the employer who is not elsewhere excluded by the Virgin Islands Code from membership and whose term of employment is for at least one year, provided that an initial appointment to a position for the remainder of the then current fiscal year be considered as meeting this requirement.

(e) Notwithstanding the provisions of subsection (b) of this section, any person who is over 55 years of age on the date of his first appointment and who elects the option referred to in subsection (i), section 704 of this chapter.

(f) any employee whose services are compensated on a contractual, fee or per diem basis and who works exclusively for the Government at least 40 hours per week may be included as a member and receive service credit for such periods by paying contributions pursuant to section 704 of this chapter.

(~~f~~) (g) The following persons shall be excluded from membership in the system:

~~**(1)** Any employee whose services are compensated on a contractual or fee basis; Provided, however, That any such employee may, at his option, be included as a member if he has at least five years of prior credited service.~~

(~~2~~1) Any casual ~~or per diem~~ employee.

(~~3~~2) Any part-time employee who does not regularly work at least 50 percent of the normal work period.

(43) Any provisional employee.

704. Credited service

(a) Subject to the provisions of section 721 of this title each employee in service on the date of establishment shall receive credit as prior service for all service rendered in any department, division or agency of the employer, except such service as is excluded by section 703(c) of this title; Provided, That any employee who may have received a refund under predecessor systems shall repay within five years the amounts refunded in order to gain credit for said prior service; And provided further, That any employee who was excluded from coverage under predecessor systems but who worked continuously for the Government of the Virgin Islands shall receive credit for said prior service if within five years of date of establishment such employee repays an amount equal to contributions which would have been deducted from his salary during said period. The prior service credit to be granted a member shall be for the same periods of time as granted under applicable registration relating to the existing retirement funds. Additionally, the member shall pay to the system the withdrawn contributions, the interest paid on those contributions prior to withdrawal, and the income the system would have earned had those contributions remained in the system, and the interest on the unpaid balance, if the member elects to redeposit on an installment basis. If the member elects to repay on an installment basis, the member shall have the maximum of 36 months. The member shall repay the withdrawn contributions and the applicable interest before receiving his annuities.

(b) Any employee who shall not be in service on the date of establishment, who reenters service thereafter, shall be entitled to receive credit for prior service providing he repays, within five years from date of reentry, all amounts refunded under any system.

(c) Any employee who shall not be in service on the date of establishment, who reenters service thereafter, shall be entitled to receive credit for prior service rendered prior to predecessor systems.

(d) (1) Any employee shall be entitled to credited service, up to a maximum of 3 years, for all military service in the Armed Forces of the United States, including the army, navy, marines or coast guard, merchant marine, air force or any auxiliary thereof, either by enlistment or induction. Provided, that such employee must have been a bona fide Virgin Islands resident prior to entering military service and pays an amount equal to the employer and employee contributions at the respective rates assessed for each period or portion of non-credited service the member seeks to receive credit.~~which would have been deducted from his salary during the period~~.

(2) However, all members of the system who are vested on the enactment date of this subsection and have earned credited service shall maintain their credit earned before the effective date of this paragraph.

(e) Prior service credit and membership service credit shall also include such time as a member has been in military service, not to exceed 3 years.

(f) Any member shall be entitled to credit as prior service or membership service, as the case may be, for any period of approved leave of absence without compensation, under rules in force,

which shall not exceed an aggregate period of 24 months during the entire period of credited service of the member. The member shall pay to the system the income the system would have earned had those contributions been paid to the system during the period of his approved leave of absence without compensation, and the interest on the unpaid balance, if the member elects to deposit on an installment basis. If the member elects to pay on an installment basis, the member shall have the maximum of 36 months and before any retirement benefits are received to pay the contributions and applicable interest.

(g) In the computation of total credit for prior service or membership service, nine months or more of service shall constitute one year of service; six to eight months inclusive, shall constitute three-quarters (.75) of a year; three to five months inclusive, shall constitute one-half (.50) of a year; less than three months shall constitute one-quarter (.25) of a year not more than one year service credit shall be granted for all service rendered during a fiscal year. Fifteen days or more of service during any month shall constitute a month of service; five to fourteen days inclusive, shall constitute one-half (.50) of a month; less than five days, inclusive, shall constitute one-quarter (.25) of a month.

(h) Notwithstanding any other provision of this chapter, any person who is presently a member of this system who has rendered prior permanent or continuous service to the federal government in the Virgin Islands, and for which credit under this system has not been received, may receive credit for the prior service by establishing that the member is not eligible to receive a federal pension, by contributing to the system the employer and employee contributions at the respective rates assessed for each period or portion of non-credited service the member seeks to receive credit. The member shall pay to the system the employer and employee contributions and the income the system would have earned had those contributions been paid to the system, and the interest on the unpaid balance, if the member elects to deposit on an installment basis. If the member elects to pay on an installment basis, the member shall have the maximum of 36 months before any retirement benefits are received to pay the contributions and the applicable interest.

~~[Reserved for future use.]~~

(i) No credited service benefit may be paid to any government employee for excess annual leave, sick leave, leave without pay, federal service in the V.I., study leave, or for prior military service until the system has received retirement contributions payments from the employer and employee.

(j) Notwithstanding any other provision of this chapter, any person who is presently a member of this system who has rendered prior permanent or continuous service to the Government of the Virgin Islands, or the federal government in the Virgin Islands, and for which credit under this system has not been received, may receive credit for the prior service by contributing to the system contributions at the respective rates assessed for each period or portion of non-credited service the member seeks to receive credit. The member shall pay to the system the contributions and the income the system would have earned had those contributions been paid to the system, and the interest on the unpaid balance, if the member elects to deposit on an installment basis. If the member elects to pay on an installment basis, the member shall have the maximum of 36 months before any retirement benefits are received to pay the contributions and the applicable interest.

(k) Any employee shall be entitled to credited service as a member of the Legislature, as defined in Title 3, section 714, Virgin Islands Code, provided such service is not applied to legislative service retirement as provided in Title 3, section 714, Virgin Islands Code.

(l) If the employer fails or refuses to remit contributions on behalf of any employee for any period wherein service credit is being or has been sought, the employee may remit to the system a sum that equals the employer's and the employee's contributions for the period of credited service he has elected to obtain.

(m) Employee or employer contributions for service credit on which benefits are to be calculated must be paid prior to the date of issuance of the first retirement benefits payment.

(n) The required contributions for any service which have not been made for prior service, past service, military service, leave of absence service, and in the territory service, must be paid by cash, personal check or money order. The contributions must be accompanied by a statement identifying the service for which payment is made and must be made in lump sum for the total due or in annual payments of not less than $500, except for the final payment if less than $100, unless another method of payment is authorized by the Board of Trustees. Interest must be added annually to any unpaid balance not received by the Benefits Division on or before October 1 of each year.

(o) The required contributions for any service which have not been made prior to a member's retirement may not be made by any person after the member's retirement. The required contributions for any service which have not been made by the members before his death prior to his retirement may be made only by those authorized by the Board of Trustees to purchase the service.

(p) A member may make the required contributions for past service not made by his employer.

(q) Retirement contributions paid for a prior period, whether by employer or by member, must be charged a delinquent fee of 1.5% for each calendar month or part thereof that paid contributions should have been paid. This includes prior period contributions due to incorrect wages and contributions from an earlier report or wages and contributions that should have been reported, but were not. This delinquent assessment may not be waived. If the delinquent assessment is not remitted within thirty days following the Benefits Division invoice, an additional delinquent assessment of 1.0% on the invoice amount shall be assessed for each calendar month or part thereof that the invoice is delinquent.

(r) Retirement contributions not remitted timely as prescribed by this chapter are delinquent, unless at the opinion of the Administrator, exceptional circumstances beyond the employer's control prevented payment by the prescribed due date and a waiver of the delinquent fee is granted by the Administrator. A waiver may be granted only once for an employer during any one fiscal year. The employer shall pay the assessed delinquent fee, plus any additional delinquent charges that have accumulated during the time required to renew the request for a waiver of the delinquency charge.

(s) If an employer fails to pay the total amount due within one hundred twenty calendar days from the date of the system's invoice, the Administrator shall notify the Board and certify the amounts due to the system. The Board shall determine the appropriate action to be taken.

(t) ~~**Contributions may not be made prior to the service being performed. Payment of the required employee retirement contributions for other than current service must be made in accordance with the provisions of this chapter. Contributions for the purchase of additional service may not be made prior to the accrual of five years of credited service.**~~

(t) Any member may purchase additional service credit, which shall be added to his years of service credit already accrued for service worked and contributions paid. The following provisions shall apply:

(1) "*Additional Service Credit*" shall mean service credit that may be purchased by the member for time he has not actually worked while in the service of the employer. "*Service Credit,*" as referred to and used in this section, shall have the same meaning as "*Membership Service*" in 3 V.I.C. § 702(i), (j).

(2) No member may purchase more than 5 years of additional service credit.

(3) Once a member makes an election to purchase additional service credit, he may not modify or cancel his election, and he may not make another election to purchase additional service credit, even if the amount of service credit purchased during the first election to purchase additional service credit is less than 5 years.

(4) A member must pay the full amount charged to him for the additional service credit prior to his date of retirement.

(5) A member may make payment for additional service in a lump sum payment or in bi-weekly installments via payroll deductions before his date of retirement. When a member elects to make payment in installment payments via payroll deductions, he will have a total of two years for each year of additional service credit to make payment, provided that the final payment must be made prior to his or her date of retirement.

(6) The amount that shall be charged to a member for the purchase of additional service credit shall, at a minimum, include the employer's and employee's share of contributions; however, the System shall also charge to the member, in addition to the contributions herein prescribed, an additional charge or factor that is recommended by the System's actuarial consultant. This additional charge must be adopted by the Board of Trustees and administered by the Administrator of the System.

(7) A member must have at least 10 years of service credit before he is eligible to purchase additional service credit.

(8) Additional service credit may not be used to qualify a member for Duty or Non-Duty Disability.

(9) When a member completes payment for additional service credit, the additional service credit shall be added to his years of service credit, and he must still qualify for a service retirement annuity based on his years of membership service as referred to in subsection (1) of this section. Additional service credit may be used to qualify a member for a regular service retirement annuity only if the member has accrued at least 25 years of service credit by the time he completes payment for additional service credit, and such member may use additional service credit to qualify for receipt of said service retirement annuity, notwithstanding age and provided the additional service credit and the member's service credit equal 30 years.

(10) Any member who leaves the payroll for any reason prior to completing payment for purchase of additional service credit shall not be eligible to retain the proportionate amount of service credit for which he has already paid. When a member leaves the payroll for any reason prior to completing payment for additional service credit, the System shall return, within 30 business days, to the member the amounts it has received from the member, and no interest shall be paid. However, in the event a member is reinstated in accord with a court judgment, arbitration or other such award, he shall be eligible to have all previous rights restored, upon request to the System.

(11) The Board of Trustees may change the additional charge or factor recommended by the System's actuarial consultant, but such adjustment cannot be applied to members who have already received a summary, statement, letter, or any other form of correspondence, that acknowledges receipt of the member's application, request, or desire to purchase additional service credit, and which informs or gives notice to the member of the amount to be charged for the additional service credit and other applicable terms as provided by this section, or any section of Title 3, Chapter 27 of the Virgin Islands Code, that may be applicable.

705. Conditions for service retirement

(a) An application for an annuity shall be in writing, addressed to the Board in care of the Administrator. The annuity when granted shall begin as of the 1st day of the month next following the date of withdrawal from service. In no case shall an annuity become effective prior to the aforesaid date nor more than 60 days prior to the receipt of the application from the member.

(b) Any member retiring pursuant to the provisions of this chapter shall notify the System, in writing, of the intent to retire at least one (1) year prior to the date of retirement. The member shall notify his Department Head ~~and the Administrator,~~ of his intent to retire at least three (3) months prior to the date of his retirement, ~~;~~ but in no event shall a member give less than sixty (60) days notice of his intent to retire.

(c) In the case of a policeman, fireman or prison guard, such automatic retirement shall occur at the age of fifty-five years or over after attaining a minimum of ten years of credited service; notwithstanding that withdrawal from service may have occurred prior to the time that

application for annuity is made. The mandatory retirement age, as established in this subsection, may be temporarily waived as provided in section 530(g) of this title.

(d) Any member who has completed thirty years of credited service may retire on a full service retirement annuity notwithstanding his age, without reduction of annuity. Additionally, any member who is age fifty (50) years with ten (10) but less than thirty (30) years of service may retire on a service annuity which shall be reduced by .325 of one percent for each month, or fraction thereof, that the member's age is less than sixty (60) years. A police officer, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, firefighter, including a firefighter employed by the Virgin Islands Port Authority, marshal of the Superior Court and Supreme Court, probation officer of the Superior Court, internal affairs agents, to include but not limited to the Director and Assistant Director and agents of the Internal Affairs Bureau of the Virgin Islands Police Department, peace officer as defined in Title 5, section 3561, Virgin Islands Code, emergency medical technician, a radiology or x-ray technician employed by the Department of Health or the Virgin Islands Hospitals or corrections officer who has completed twenty (20) years or more of credited service as a police officer, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, firefighter, including a firefighter employed by the Virgin Islands Port Authority, marshal and probation officer of the Superior Court, peace officer as defined in Title 5, section 3561, Virgin Islands Code, emergency medical technician, a radiology or x-ray technician employed by the Department of Health or the Virgin Islands Hospitals, or corrections officer, or combination thereof, may retire notwithstanding his age without reduction of annuity.

(e) Any member whose withdrawal from service occurs:

(1) prior to age sixty (60) years and after at least ten (10) years of credited service; or

(2) in the case of a police officer, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, fireman, including a firefighter employed by the Virgin Islands Port Authority, marshal of the Supreme Court or the Superior Court, internal affairs agents, to include but not limited to the Director and Assistant Director and agents of the Internal Affairs Bureau of the Virgin Islands Police Department, peace officer as defined in Title, 5, section 3561, Virgin Islands Code, emergency medical technician, a radiology or x-ray technician employed by the Department of Health or the Virgin Islands Hospitals, or corrections officer, prior to age fifty-five (55) years and after at least ten (10) years of credited service but not as much as twenty (20) years of credited service, and who has not received a refund of accumulated contributions, shall be entitled to receive a deferred service retirement annuity payable upon attainment of age sixty (60) or fifty-five (55) years, as the case may be.

706. Amount of service retirement annuity

(a) Upon retirement from service, a member shall receive a service retirement annuity, payable semi-monthly, computed at the rate of 2.5% of average compensation times the number of years of credited service, not to exceed 40 years.

To the amounts of annual service retirement annuity produced by the application of the foregoing rates in any case in which average compensation is $4,500 per year or less shall be added the sum of $20.00 per year of credited service, and in any case in which average compensation is over $4,500 but not more than $6,000 per year, shall be added the sum of $10.00 per year of credited service, however, the foregoing shall not apply to any person with 40 or more years credited service. Notwithstanding any other provision of this chapter, the service retirement annuity of any member or special pensioner who has at least 20 years of credited service regardless of the retirement law in effect when the member retired, shall be not less than $2,400 per year; provided that the service retirement annuity of any such member or special pensioner who has at least 20 years of credited service, and who is not eligible to receive Social Security benefits, shall be not less than $3,600 per year; and provided further, that for the purposes of this provision establishing minimum retirement annuities, the term member shall include all members and annuitants of the system and all annuitants of the superseded retirement funds incorporated into the system pursuant to section 721 of this chapter.

A proportional amount of service retirement annuity shall be determined and granted for a fractional part of a year of service at the end of the total service period.

(b) In the case of a policeman, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, fireman, including a fireman employed by the Virgin Islands Port Authority, marshal of the Superior Court, internal affairs agents, to include but not limited to the Director and Assistant Director and agents of the Internal Affairs Bureau of the Virgin Islands Police Department, peace officer as defined in Title 5, section 3561, Virgin Islands Code, emergency medical technician, a radiology or x-ray technician employed by the Department of Health or the Virgin Islands Hospitals, or corrections officer, or combination thereof:

(1) The retirement annuity, for credited service of less than 20 years, shall be as provided in subsection (a) of this section, but not less than two percent of average compensation per year of credited service.

(2) The retirement annuity for credited service of 20 years or more as a policeman, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, fireman, including a fireman employed by the Virgin Islands Port Authority, marshal of the Superior Court, internal affairs agents, to include but not limited to the Director and Assistant Director and agents of the Internal Affairs Bureau of the Virgin Islands Police Department, peace officer as defined in Title 5, section 3561, Virgin Islands Code, emergency medical technician, a radiology or x-ray technician employed by the Department of Health or the Virgin Islands Hospitals, corrections officer, or combination thereof, shall be the annuity produced by 3 percent of average compensation per year of credited service, but in no event shall the retirement benefits payable to a policeman, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, fireman, including a fireman employed by the Virgin Islands Port Authority, marshal of the Superior Court, internal affairs agents, to include but not limited to the Director and Assistant Director and agents of the Internal Affairs Bureau of the Virgin Islands Police Department, peace officer as defined in Title 5, section 3561, Virgin Islands Code, emergency medical technician, a radiology or x-ray technician employed by the Department of Health or the Virgin Islands Hospitals, or corrections officer or combination thereof under the provisions of

this chapter exceed 90 percent of average compensation, except as increased by paragraph (3) of this subsection; Provided, however, That any member qualifying for benefits under this paragraph may elect to receive such benefits or the benefits payable for his years of credited service under subsection (a) of this section.

(3) Beginning with the first day of the month coincident with or next following the date following the date on which the retired policeman, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, fireman, including a fireman employed by the Virgin Islands Port Authority, marshal of the Superior Court, internal affairs agents, to include but not limited to the Director and Assistant Director and agents of the Internal Affairs Bureau of the Virgin Islands Police Department, peace officer as defined in Title 5, section 3561, Virgin Islands Code, emergency medical technician, a radiology or x-ray technician employed by the Department of Health or the Virgin Islands Hospitals or corrections officer has attained the age of sixty years and who has qualified for annuity payments under paragraph (2) of this subsection, the retirement benefits granted under this section shall be increased by 1.5 percent per annum and shall be increased by an additional 1.5 percent per annum each year thereafter.

(4) [Repealed.]

(c) Any member receiving a service retirement annuity who reenters the service of the government may continue to receive his annuity while in receipt of salary from the Government, either by appointment or on a contractual basis, for a period of time not to exceed 75 days each year. At the end of such period, the service retirement annuity shall be cancelled and the member shall thereupon again become a contributor to the system. Upon subsequent retirement, the member shall receive a retirement annuity which shall consist of (a) the previous retirement annuity which had been cancelled, plus (b) the additional retirement annuity earned during reemployment. If such member renders at least 3 years of additional service during reemployment, his retirement annuity shall be recalculated according to the provisions of the retirement system in effect at the date of his latest retirement based upon his entire period of service including service rendered both before and after the date of reemployment by the government, provided that the annuity shall in no event be less than the amount originally granted.

(d) Notwithstanding any other law, no member shall receive a service retirement annuity in an amount that exceeds $65,000 per annum exclusive of any cost of living annuity, bonuses or adjustments.

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706a. Limitation on compensation of retired contractual employees

No retiree of the federal government, the Government of the United States Virgin Islands, or of the private sector shall be employed by the Government of the Virgin Islands on a contractual basis the compensation of which exceeds the highest rate of salary received by that employee before retirement and in any case such rate of compensation shall not exceed $55,000 per year.

707. Options at retirement

(a) In lieu of the retirement allowance for his life alone, a member, but not a retired member, may elect, revoke, or change a previous elections, to have the actuarial equivalent of his retirement allowance as of the date of retirement applied to provide a lesser retirement allowance, in accordance with one of the optional settlements specified in this section.

(b) The election, revocation, or change of election may be made at any time before the effective date of retirement or after the effective date and prior to the making of the first payment on account of any retirement allowance.

(c) If a member designates a spouse as the intended beneficiary, at any time before the making of the first payment on account of the member's retirement allowance, his spouse dies, or his marriage is terminated by a final judgment of divorce or annulment, upon notice to the System, the election of the member is ~~automatically~~ voided, and the member may make a new election.

(d) A member who has elected an optional settlement providing for the payment of a benefit to his spouse may, at any time before the making the first payment on account of his retirement allowance, substitute a different optional settlement. The election, revocation, or change of election must be executed in writing and filed with the ~~Board~~System. Any member electing an optional settlement must be advised of ~~his~~ the options and status before and after making ~~his~~ an election.

(e) A deceased member who was~~is~~ eligible for retirement ~~who~~ and elected one of the optional settlements specified in this section, **whomever the member selected to receive the optional benefit** ~~the surviving spouse of the member~~ shall receive the same benefits as ~~the surviving spouse would have received~~ if the date of his death had also been the date of his retirement and if retirement had preceded death. In the event benefits are paid to a surviving spouse, no payment shall be made pursuant to this section.

(1) If a member dies without having elected an optional settlement and there is a surviving spouse, the member shall be deemed for the purposes of this paragraph to have elected Optional Settlement No. 2 as provided in subsection (h).

(2) In either case, the benefits payable to the surviving spouse must be in the same amount as if the member had elected to receive credit for service rendered prior to the date he became a member of this system and had paid the full amount of the contributions in respect to the service.

(f) Any election filed under this section prior to the effective date of the amendments to this section enacted by prior law continue to be effective in accordance with the terms of this section as it read prior to the amendments and may thereafter be revoked or changed or voided only in accordance with this section as it read prior to the amendments.

(g) A member may designate one or more person as beneficiary. If more than one beneficiary is designated under an optional settlement involving life contingency of a beneficiary, the member shall be deemed to have elected the optional settlement on an equal portion of his allowance independently for each beneficiary.

(h) The following options are available to members pursuant to this section:

(1) Optional Settlement 1 - The member has the right to have a retirement allowance paid to him until his death, and if he dies before he receives the amount of his accumulated contributions at retirement, to have the balance at death paid to his beneficiary or estate.

(2) Optional Settlement 2 - The member has the right to have a retirement allowance paid to him until his death and thereafter to his beneficiary for life.

(3) Optional Settlement 3 - The member has the right to have a retirement allowance paid to him until his death, and thereafter to have one-half of his retirement allowance paid to his beneficiary for life.

708. Duty disability retirement annuity

(a) Any member who becomes totally and permanently incapacitated for service as the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of his duties, if such injuries or hazard were not the consequences of the ~~wilful~~willful negligence of the member, shall receive a duty disability **retirement** annuity; Provided, That application is made not more than six months after being advised that he is permanently and totally incapacitated for service if an accidental disability or six months after the occurrence of disablement if an occupational disease and proper proof is received from one or more physicians designated by the Board that such member is mentally or physically incapacitated; And provided, further, That notice of the accident shall have been filed in the office of the board within 30 days next following the date of the accident; And provided, further, That in the case of members found pursuant to Title 3, section 584a, subsection (d) of this Code to be permanently disabled and unfit to perform their duties, application shall be made not more than three months after such determination is made pursuant to Title 3, section 584a, subsection (d) of this Code, and no prior notice of the accident to the office of the board shall be required.

The decision of the Board shall be based on the opinion of the physician(s) selected by the Board and not the opinions of the physicians selected by the member or any other entity, including but not limited to the Social Security Administration or Worker's Compensation Administration.

(b) The duty disability **retirement** annuity shall be payable during disability and shall be equal to 75 percent of the member's rate of compensation at date of disability in an amount not to exceed $65,000 per annum. The annuity shall be offset by any amounts received by the member as workers' compensation administration from the employer.

(c) For the purpose of this section:~~,~~ ~~totally and permanently incapacitated means inability to perform substantial gainful employment.~~

(1) A member is totally and permanently disabled only if his physical or mental impairment or impairments is so severe that he is not only unable to perform his previous work but also cannot, considering his age, education and work experience, engage in any other kind of substantial gainful employment which exists in the Territory regardless of whether: (A) The

work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he applied for work.

(2) For purposes of this article, substantial gainful employment means:

"any work that is generally done for pay or profit that the member is able to perform with sufficient regularity and duration to provide a reliable source of income that provides an annual income that exceeds the poverty threshold for one person as determined by the Virgin Islands Department of Human Services, irrespective of the number of hours or days that the member actually works."

(d) The ~~Board~~ System~~of Trustees~~ may request earnings information from recipients of disability annuities to verify disability claims. The recipient shall provide the earnings information to the Board of Trustees within 30 days of the date of the ~~Board of Trustees~~ request. If the recipient fails to provide the requested information within the prescribed time, the duty disability annuity must be discontinued until the requested information is provided. When the requested information is provided, the duty disability **retirement** annuity ~~must~~ may resume.

709. Duty-connected death annuity

(a) Upon death of a member before retirement as the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of his duties, if such injuries or hazard were not the consequence of the willful misconduct of the member, the surviving widow of the member shall be entitled to an annuity equal to 40 percent of the annual compensation of the member at the date of death of the member, to continue during her widowhood. This annuity shall be increased by 10 percent of the member's compensation on account of each unmarried minor child under age 18, subject to a maximum payment to a widow and children of 60 percent of compensation. If there be no widow or if the widow dies or remarries before any child of such deceased member shall have attained the age of 18 years, then each child under said age shall receive an annuity of 10 percent of the member's compensation, to continue until each child attains age 18, subject to a limitation of 50 percent of compensation to all minor children. If there be no widow or children under age 18 then payment of annuity shall be made to the dependent father and dependent mother of the member, at the rate of 25 percent of compensation to each, for life, provided, that if none of the aforementioned beneficiaries is living at the death of the member, no duty-connected death annuity shall be paid under the provisions hereof.

(b) Adopted children shall be eligible for benefits hereunder provided the proceedings for adoption shall have been initiated at least one year prior to the date of death of the member.

(c) Where any payment under any section of this chapter is due a minor, or a person mentally incompetent or under other legal disability, such payment may be made to the person who is constituted guardian or other fiduciary by the law of the Virgin Islands, or the place of residence of such claimant, or is otherwise legally vested with the care of the claimant or his estate; Provided, That where no guardian or other fiduciary of the person under legal disability has been

appointed under the laws of the Virgin Islands or the place of residence of the claimant, payment may be made to any person who in the judgment of the ~~Board of Trustees~~System is responsible for the care of the claimant, and such payment shall be a bar to recovery to any other person.

710. Nonduty disability retirement annuity

(a) Any member under age 60 having at least 9 years of credited service who becomes totally and permanently disabled for service, either mentally or physically, from any cause other than duty disability shall be entitled to a nonduty disability **retirement** annuity.

(b) Such annuity shall begin to accrue upon termination of payments to the employee by the Government of amounts representing full compensation, part compensation or any other form of compensation; Provided, ~~That~~ that if written application for such annuity is not filed with the ~~Board~~ System within 60 days of the date of termination of such compensation payments, the annuity shall begin to accrue as of the day 60 days prior to the receipt of such application.

(c) A member shall be considered totally and permanently disabled only after the board has received (1) written certification by at least two licensed and practicing physicians, selected by the Board, that the member is totally and likely to be permanently disabled for further performance of the duties of any assigned position in the service of the employer, and (2) written certification from the employer that the member has been separated from the service of the employer because of a total and permanent disability of such nature as to reasonably prevent further service for the employer, and as a consequence is not entitled to compensation from the employer.

(d) The amount of disability **retirement** annuity shall be equal to 2 percent of average compensation for each year of credited service at date of disability, subject to a minimum of 20 percent of average compensation and a maximum of 60 percent of average compensation in an amount not to exceed $65,000 per annum~~.~~, exclusive of any cost of living annuity, bonuses or adjustments. Any payments by the employer representing salary or part salary shall be applied to reduce the amount of the annuity payable to the member.

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(e) The recipient of a non-duty disability **retirement** annuity shall provide earnings and medical information as requested by the ~~Board of Trustees~~System to verify disability claims. If the recipient fails to provide requested information, the non-duty disability annuity must be discontinued until the time as the requested information is provided. When the requested information is provided, the non-duty disability **retirement** annuity resumes.

710a. Committee of Medical Review

(a) There is hereby created a Committee of Medical Review, to fulfill the requirements of Sections 708 and 710 of this chapter, and to assure fair and impartial evaluation of all claims for permanent disability retirement benefits. The Committee of Medical Review shall consist of at least three (3) and no more than seven (7) physicians who are licensed and Board certified. Each physician must be retained by contract. Any member of the Committee of Medical Review shall

refrain from participation when it is clear that they may have a conflict of interest on a particular case. When a member recuses himself, the Committee shall conduct its work with a majority of the members of the committee. The Committee of Medical Review, its substitutes, and its employees may not be held personally liable for conclusions, advice, or recommendations made in accordance with the duties of the Committee of Medical Review. The substitutes shall serve at the pleasure of the Board of Trustees and shall be paid at a rate of compensation set by the Board of Trustees.

(b) The Committee of Medical Review shall:

(1) review all reports and medical examinations required by this chapter;

(2) investigate all essential health and medical statements and certificates filed in connection with an application for disability retirement benefits; and

(3) submit to the ~~Board of Trustees~~System a written report of its conclusions and recommendations on all matters referred to it.

(c) The Board of Trustees shall, within 270 days of the enactment of this section, promulgate rules and regulations governing the administration of this section.

711. Administration of disability annuities

(a) At least once each year during the first five years following the allowance of a disability annuity to any member, and at least once in every three-year period thereafter, until a member's attainment of age 55, the ~~Board~~ System shall require any disability beneficiary to undergo a medical examination to be made at the place of residence of said beneficiary, or any other place mutually agreed upon, by a physician or physicians engaged by the ~~Board~~System. If an examination indicates that the beneficiary is no longer physically or mentally incapacitated for service in the position held by the member at the date of disability, payments by the system shall be discontinued. The name of such member shall then he placed on the appropriate list of candidates maintained for appointment to a position in the division for which he is found to be qualified at compensation at least equal to the rate he received at the time he last became a beneficiary.

(b) Should any member receiving a duty disability annuity or nonduty disability annuity resume a gainful occupation, and his earnings therefrom together with his disability annuity exceed the rate of compensation of the member at the date of retirement, the ~~Board~~ System shall reduce the amount of disability annuity to an amount which, when added to the compensation being earned by the member, shall not exceed the rate of compensation of the member at the date he last became a disability beneficiary.

(c) Should any disability beneficiary refuse to submit to a medical examination as herein provided, payments by the system shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all rights of the member in any disability annuity shall be revoked by the Board.

712. Death benefit provisions

Death while in service

(a) Upon death of a member while in service, if no duty-connected death annuity is payable, a payment of the accumulated contributions of the member shall be payable.

~~**(b)** Upon the death of a member while in service, not enrolled in the Government's Health Insurance Program, if no duty-connected death annuity is payable, a payment of the accumulated contributions of the member plus the following in lump sum shall be payable:~~

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Death after retirement

(c) Upon death of a retired member, unless an optional benefit has been elected as provided in section 707 of this title, a lump-sum payment equal to ~~the excess of the annual salary of the member at the date of retirement as defined in section 702(a) of this title, plus the~~ member's total contributions, over the amounts received by the member in annuity payments up to the time of his death~~, and if the member is enrolled in the Government's Health Insurance Program the Life Insurance Benefits of $5,000, shall be paid to the designated beneficiary of the member.~~

~~Designation of beneficiary's payment in absence of designation~~

~~**(d)** The death benefit payments as provided under subsections (a), (b) and (c) of this section shall be payable to a beneficiary designated by the member. In the absence of such designation, the death benefit payments provided under subsections (a), (b) and (c) of this section shall be payable to a beneficiary of the member in the following order of precedence:~~

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~~**(1)** The surviving spouse~~

~~**(2)** If there is no surviving spouse, to the child or children, and descendants of children by representation, in equal amounts~~

~~**(3)** The parents of the member~~

~~**(4)** Where none of the above named survive, the member's estate shall only be entitled to receive payment of the excess of the member's accumulated contributions over the amount of annuity payment received by the member up to the time of his death.~~

~~**(e)** Upon death of a member occurring while in service, the deceased member's surviving spouse shall be entitled to a payment of the accumulated contributions of the member. The accumulated contributions of the deceased are not payable to a surviving spouse who is entitled~~

~~to a duty-connected death annuity. If there is no surviving spouse, the death benefit as provided in subsections (a) and (b), whichever is applicable, is payable.~~

(f) Upon the death of a member who is a police officer in the employ of the U.S. Virgin Islands Police Department (V.I.P.D.), a firefighter in the Virgin Islands Fire Service or in the Port Authority Fire Service, a Corrections Officer employed by the Bureau of Corrections, a Marshal of the Superior Court, an Enforcement Officer of the Department of ~~Conservation~~ Planning and ~~Cultural Affairs~~Natural Resources, or any agent of the Virgin Islands Drug Enforcement Bureau, who is killed in the performance of his official duty, whether or not such officer was officially on duty at the time of the incident which was the cause of the death, the mortuary service which prepares the body for burial or interment or renders any other services connected with the death, shall receive reimbursement, not to exceed $5,000, from the Government of the Virgin Islands for actual expenses incurred.

(1) Within three working days of the death of an employee covered under this subsection the head of the Department or Agency in which the person was employed, or his designee, shall certify the death to the Commissioner of Finance and shall deliver to the Commissioner of Finance a copy of the death certificate and an itemized accounting of mortuary or other services rendered.

(2) The Commissioner of Finance shall reimburse the mortuary service for actual expenses incurred, not to exceed $5,000, within two weeks of the date of receipt of the documents delivered to him pursuant to paragraph (1) of this subsection.

***** Not applicable to the GERS. Move this section to appropriate chapter.

713. Refunds

(a) Upon withdrawal from service, any member who does not have ten years of credited service and is not then eligible for a service retirement annuity shall be entitled to receive a refund of the accumulated contributions, plus regular interest, including contributions made by the member to any superseded retirement system. Any member withdrawing from service who does not receive a refund and later returns to service shall receive credit for the amount of credited service in force at the time of his withdrawal from service. Any member receiving a refund shall thereby waive and relinquish all accrued rights in the ~~s~~System including all accrued credited service. The Board may, in its discretion, withhold payment of a refund for a period not to exceed one year after receipt of an application from a member. If no specific request to the contrary is made by a member within 30 days from the date of his separation from the service, the Board may, in its discretion, refund the accumulated contributions of any member who has less than 3 years of credited service; notwithstanding that such member may not have applied for a refund.

(b) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under the provisions hereof. Additionally, the member shall pay to the ~~s~~System the withdrawn contributions, the interest paid on those contributions prior to withdrawal, the income the ~~s~~System would have earned had those

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contributions remained in the ~~s~~System, and the interest on the unpaid balance, if the member elects to redeposit on an installment basis, provided the payments do not exceed a period of five consecutive years.

(C) (1) "Whenever the System receives from the employer a member's contributions, due to partial payment(s) of the 'salary right' of a member, as defined by 3 V.I.C. § 702(z), and such contributions are not adequate to permit the System to adjust the member's service retirement annuity for paid membership service, or, no Notice of Personnel Action (NOPA) is received to permit the System to adjust the member's service retirement annuity, the System shall refund the member's contributions to the member. "

(2) "Payment of the member's contributions to the member shall be final and in lieu of his receipt of membership service credit, and the member shall not be entitled to any membership service credit that he would have received, or to which he would have been entitled, if contributions were paid on compensation created by the 'salary right.'"

714. Coverage of members of the Legislature

(a) Membership in the system for members of the Legislature shall be optional. Each member in service on July 1, 1970, and who is not then a member of the system by previous election, may obtain coverage in the system by filing an application within twelve (12) months from such date, on a form provided by the Administrator. Salary deductions for new members of the system, at the rate prescribed herein, shall begin from the first payroll period following the filing of the application with the Administrator and credited service as a member of the system shall begin to accrue. Any such new member who desires credit for service rendered as a member of the Legislature shall contribute to the system the amount of contribution in effect during such prior service not later than June 30, 1971.

(b) Each person who becomes a member of the Legislature after July 1, 1970, and who is then not a participant by previous election, shall automatically become a member of the system and be subject to salary deductions hereunder unless, within 90 days from the date he becomes a member of the Legislature, he filed with the Administrator a written notice of election not to participate.

(c) Participation in the system on the part of any member of the Legislature shall continue until the date he becomes an annuitant, dies or accepts a refund of his contributions thereto.

Notwithstanding the provisions of this chapter, proportionate contributions shall be made by each member of the Legislature who has completed ten (10) years of service if the member elects to receive pension credit for any period for which such member was not covered by the system, provided, however, that such proportionate contributions are made retroactively for the respective period of service.

(d) The rate of contribution to the system on the part of a member of the Legislature who becomes a member of the system shall be ~~9~~ 13 percent of his annual salary. This rate shall apply to service rendered beginning January 9, 1989. For purposes of this chapter, service as a member of the Legislature during any part of a calendar year shall be deemed to be a year of credited service; Provided, That contributions are made for the full calendar year.

(e) The conditions governing eligibility for service retirement for any member of the Legislature and the amount of the annuity shall be as stated in this section, all other provisions of this chapter notwithstanding.

Vesting in a service retirement annuity shall attach upon completion of 6 years of credited service. Any such member shall be eligible for service retirement beginning at age 50 on a service retirement annuity equal to the rate set forth in the following schedule:

1. For each year of credited service during the first 6 years2 percent of compensation;

2. For each year of credited service from 7 to 12 years inclusive3 percent of compensation;

3. For each year of credited service above 12 years4 percent of compensation;

provided that the maximum service retirement annuity of 75 percent of compensation shall, in any event, be payable upon completion of twenty years of credited service, whether or not such member has reached age 50. For purposes of this subsection, the term compensation shall mean the highest rate of salary, as established by section 71 pursuant to the provisions of section 73 of Title 2, Virgin Islands Code, received by that member during his tenure as a member of the Legislature and shall increase only as provided under this chapter.

(f) In the case of any member of the Legislature who shall become separated from the service before he completed an aggregate of 6 years of service as a member of the Legislature, the total amount paid by such member of the Legislature shall, upon his application, be returned to him or such legislative service shall be credited to the member's service as provided by Title 3, section 704, subsection (k), Virgin Islands Code. No such member of the Legislature shall thereafter receive credit for such service unless he again becomes a member of the Legislature and redeposits the amount so returned.

(g) (1) Nothing contained in this chapter shall be construed to prevent any person eligible therefor from simultaneously receiving an annuity computed on the basis of years of service other than as a member of the Legislature and an annuity computed in accordance with this section; nor shall anything contained in this chapter be construed to prevent a member of the Legislature from receiving, while serving in the Legislature, an annuity for nonlegislative service.

(2) Nothing contained in this chapter shall prevent any person elected as a member by the Legislature of the Virgin Islands from simultaneously receiving an annuity under this section while so employed; nor shall anything in this chapter prevent any elected member from receiving a pension from the government of the Virgin Islands while receiving an annuity under this section.

(h) No provision of this chapter or any other Act relating to automatic separation from the service shall be applicable to a member of the Legislature.

(i) As used in this section, the term Legislature means the Legislature of the Virgin Islands, and the previous Legislative Assembly of the Virgin Islands and the previous Municipal Councils of the Municipality of Saint Thomas and Saint John and the Municipality of Saint Croix. Notwithstanding any other provision of this title, any member of the Legislature Assembly or a Municipal Council may obtain credit for such service by contributing to the system an amount equal to $100 for each year of service as a member of the Legislative Assembly or a Municipal Council.

(j) In no case shall service other than as a member of the Legislature be considered service for the purposes of this section, nor shall service as a member of the Legislature be considered service for any purpose other than as specified in this section.

(k) The provisions of this section with respect to conditions governing membership in the system, rates of contribution, conditions for retirement and rates of annuity, as prescribed by this amendatory act of 1970, shall apply fully to all membership of the Legislature in service on July 1, 1970, and to those who become members of the Legislature thereafter. All other sections of this chapter to the extent that they confer additional rights or benefits in the system to participants therein, shall apply with equal force to members of the Legislature who are members of the system to the same extent as in the case of all other employee participants and their beneficiaries, and other provisions of this chapter to the contrary notwithstanding.

(l) [Repealed.]

715. GERS; Board of Trustees; duties and responsibilities

(a) The Virgin Islands Government Employees Retirement System is established as an independent and separate agency of the Government of the United States Virgin Islands. The responsibility for the proper operation of the System and for making effective the provisions of this chapter is vested in the Board of Trustees. The Board of Trustees shall be composed of seven members who shall be appointed by the Governor with the advice and consent of the Legislature. Two members shall be appointed from a group of at least six persons who are members of the Central Labor Council, active members of the Government Employees Retirement System, and who have been recommended by the Executive Committee of the Central Labor Council. One such appointee shall be a resident of the District of St. Croix and one such appointee shall be a resident of the District of St. Thomas-St. John. Of the remaining five members, two shall be a retiree of the Government Employees Retirement System, elected through a process to be determined and conducted by the system, and at least one shall be an active member of the Government Employees Retirement System; provided that two such appointees shall be residents of the District of St. Croix, two such appointees shall be residents of the island of St. Thomas and one shall be a resident of the island of St. John. Each appointed and elected member shall serve a term of five years. No member may serve more than two complete terms. Any vacancy shall be filled in the manner of the original appointment for the unexpired term. Notwithstanding the date on which any member's term expires, all members shall serve until their successors are appointed and approved. The Governor shall designate one of the members to serve as Temporary Chairman, whose sole responsibility shall be to call the first meeting of the Board. Members may be removed for cause. Notwithstanding section 65a, of this chapter, members whose terms have expired shall continue to serve until their successor is nominated by the

Governor and confirmed by the Legislature of the Virgin Islands. All members of the Board of Trustees, who are employees of the Government of the Virgin Islands or of any of its instrumentalities, shall be automatically granted administrative leave to attend Board meetings or whenever they are in the process of conducting any official business of the Board of Trustees as designated by the chairperson of the Board.

(1) Each trustee shall take an oath of office that so far as it rests upon him he will diligently and honestly administer the affairs of the System, and that he will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to the System. Such oath shall be subscribed by the trustee taking it, and certified by the officer before whom it is taken, and immediately filed with the Lieutenant Governor. ~~Appointed m~~Members shall receive $75 for each day or part thereof spent in work of the Board, but no member shall receive more than $5,000 in any fiscal year. Trustees shall also be reimbursed by the System for all necessary expenses that they may incur through service on the Board. Appointed government members may elect to receive the remunerations as provided for in this subsection or any other remuneration to which they would otherwise be entitled for working on the Board.

(2) With the exception of the two members from the Central Labor Council, members of the Board of Trustees shall have at least five years experience and a[t] least a bachelor's degree in any of the following: business management; business administration;~~investment banking;~~ economics; finance; insurance;~~ law; medicine;~~ accounting; actuarial science; taxation; a medical degree, law degree or a licensed real estate appraiser. ~~appraisal or brokerage and securities trading.~~ Individuals with a masters of business administration; accounting; business management; finance; insurance; actuarial science; and taxation shall also be eligible to serve on the Board of Trustees.

(b) For making effective the provisions of this chapter, the Board shall adopt rules and regulations to govern its internal organization and functioning and shall approve and cause to be promulgated from time to time such other regulations as the Administrator may require for the proper and efficient administration of the System according to the law.

The Board shall have, in addition to the duties arising out of this chapter, the following powers and duties; namely, to:

(1) Hold regular meetings, at least quarterly each year, and such special meetings as may be deemed necessary. All meetings shall be open to the public. The Board shall keep a full record of all its proceedings;

(2) Consider and adopt resolutions on matters referred to it by the Administrator in connection with changes in policy and revisions of this chapter;

(3) Authorize the purchase and sale of investments by the System as may be proposed by the Administrator;

(4) Investigate and decide on appeal at the request of any member, decisions of the Administrator except those relating to classification or allocation of positions as provided under section 496 of this chapter or relating to discrimination under sections 523 and 531 of this chapter or relating to dismissals, demotions, and suspensions under section 530 of this chapter;

(5) Not later than four months following the close of each fiscal year, the Board shall transmit to the Governor and the Legislature an Annual Report on the operations of the System containing, among other things, a balance sheet on the financial condition of the System, a statement of income and expenditures for the year, a report on the most recent actuarial valuation of its assets and liabilities of no later date than three years prior to the time of the report, a detailed statement of the investments acquired and disposed of during the year, a list of investments owned; and other statistical and financial data which may be necessary for a proper understanding of the financial condition of the System and the result of its operations. The Board shall cause to be published in a Virgin Islands newspaper of general circulation a summary of the Annual Report, authorized under this paragraph for the benefit of the members of the System;

(6) Make contracts, including contracts for professional and legal services, and sue and be sued under the name and style of the Government Employees Retirement System of the Government of the United States Virgin Islands;

(7) Prescribe the policies for the proper operation of the System and carry on any other reasonable activities which are deemed necessary to effectuate the intents and purposes of the System in accordance with the provisions of this chapter. No member of the Board of Trustees may, during any process involving the request for proposals or the selection of any vendor or contractor for goods or services by the board, communicate concerning any matter relating to the request for proposals or selection with any applicant or bidder, or an officer or employee of any applicant or bidder, outside of the application or bidding process. This section applies to investment products, including but not limited to, bonds, real estate, and stocks;

(8) Recommend to the Governor and the Legislature not less than biennially an adjustment in benefits for all annuitants and pensioners based on a review of cost-of-living and related economic factors and consistent with actuarial projections on the solvency of the System;

(9) Deposit funds in banking institutions that are members of the Federal Deposit Insurance Corporation;

(10) The Board shall annually retain a nationally recognized Certified Public Accountant, with experience in pension and trust accounting, to audit the financial statements of the system. The term for which the Board may contract to employ a Certified Public Accountant may not exceed five years, nor may the Board contract the same person or entity for more than two consecutive five-year terms; and

(11) Accept, receive, deposit, control, invest, and manage appropriations, gifts, devises, bequests, or contributions regardless of the source thereof, on behalf of the system.

(c) The Board of Trustees shall appoint, with the advice and consent of the Legislature, the Administrator of the Government Employees Retirement System, who shall be in charge of the detailed affairs of the System. The Board of Trustees may also appoint as many Assistant Administrators as it deems necessary. The Administrator shall administer the business of the System and be responsible for its proper operation, subject to the orders, resolutions, and directives of the Board. He may employ such clerical, professional and technical support services as the Board may determine necessary for the proper operation of the System.

(1) Exempt employees of the Government Employees Retirement System may not be terminated or suspended except for cause.

(2) Any exempt employee whose termination or suspension is recommended must be informed in writing. Within ten days after being served notice of termination or suspension, the employee shall have the opportunity to appeal the decision of the Administrator to the Board of Trustees. After considering the evidence presented by the Administrator and the employee, the Board of Trustees may affirm or reverse the recommendation of termination or suspension of the employee.

(3) Any exempt employee served with a notice of termination or suspension is entitled to a hearing before the Board of Trustees and may be represented by counsel.

(4) If the Board of Trustees affirms the recommendation of termination or suspension, the employee may file a writ of review in the Superior Court of the Virgin Islands within 30 days of the Board of Trustee's decision.

(5) If the Superior Court determines that there existed no cause for termination or suspension of the employee and it orders that the employee be reinstated, the employee shall be paid all wages and benefits that he would have received while awaiting the decision of the Superior Court.

(6) Any employee reinstated by the Superior Court is entitled to receive reasonable attorney fees and costs incurred.

(d) The Administrator shall have, in addition to the foregoing authority, the following powers and duties, to:

(1) Establish an office for the Government Employees Retirement System and provide for a complete and adequate system of accounts and records as may be required for the effectuation of the provisions of this chapter;

(2) With the advice of a technical advisor, adopt the required actuarial tables and compile the statistical data necessary for periodic actuarial valuations and surveys of the operations of the system;

(3) Attend all meetings of the Board and carry out the resolutions and directives of the Board;

(4) Certify to the Department of Finance the payments to be made according to the provisions of this chapter;

(5) Remit or deposit in the name of the Government Employees Retirement System of the Government of the United States Virgin Islands all moneys received for the account of the System and render an accounting according to the law and the rules and regulations in force;

(6) Formulate rules and regulations to govern the operation of the System for presentation to the Board for its approval;

(7) Make recommendations to the Board for the investment or reinvestment of funds of the System, and on any change or revisions in the provisions of this chapter;

(8) Prepare the Annual Report on the operations of the System and submit the same to the Board for its approval and to the Governor and the Legislature for their information;

(9) Issue a statement of accounts showing the amount of a member's contributions to the System within 30 days of the date of a request of such member;

(10) Render any reports to the Board that it may request in connection with the operations of the System; and

(11) Issue to each retiring member and the Virgin Islands Bureau of Internal Revenue a statement of the amount of the retiring member's retirement contributions.

(e) Nothing in this chapter shall be construed as exempting the Board of Trustees or the Government Employees Retirement System of the Government of the United States Virgin Islands from any law made specifically applicable thereto or generally applicable to independent instrumentalities of the Government of the United States Virgin Islands, whether such law was enacted before, on or after the date of enactment of this section.

(f) The Board shall sit as a panel from time to time, but not less than once monthly, to hear suggestions of retired government employees on improvements to the System and decide grievances of retired Government employees. Whenever possible, the Board shall remedy the grievance in an equitable manner.

(g) In addition to the powers conferred in this section, the Board is granted, shall have and may exercise all rights and powers necessary to carry out the following provisions;

(1) To sell, exchange, transfer, assign, mortgage, pledge or otherwise dispose of, or encumber, any real or personal property, or any interest or estate in the property; provided that no provision of law with respect to the acquisition, operation or disposition of property by other public agencies shall be applicable to the system unless the Legislature shall specifically exempt or restrict property from this paragraph or shall otherwise so provide; provided further, that except for a sale resulting from mortgage foreclosure, in no case shall the Board have the power to sell any property unless the property, in the judgment of the Board, is no longer required for the purpose of carrying out the business of the system or for effectuating the purposes of this chapter;

(2) To borrow money, make and issue bonds of the Board for any of its corporate purposes, and give security therefore, provided that the authorization for the issuance of the amount of bonds shall not exceed ten percent (10%) of the market value of the total investments of the System on the date that the indebtedness is issued;

(3) To make and issue bonds for the purpose of funding, refunding, purchasing, paying, or discharging any of the outstanding bonds or obligations issued or assumed by it.

(h) In the issuance of bonds, as provided under subsection (g), of this section, the Board may;

(1) authorize the issuance of such types of bonds as it may determine, including but not limited to, bonds on which the principal and interest are payable;

(A) exclusively from the income and revenues of a project financed with the proceeds of the bonds;

(B) exclusively from the income and revenues of certain designated investments, whether or not they are financed in whole or in part with the proceeds of the bonds; or

(C) from the Systems revenues in general.

(2) Any bonds may be additionally secured by a pledge of any loan, grant or contribution from the Government of the Virgin Islands or other source, or a pledge of income or revenue of the ~~s~~System, or a mortgage of any project, or part thereof, or other property of the ~~s~~System.

(i) The Board of Trustees, on behalf of the ~~s~~System, may accept grants or loans from and enter into contracts, leases, agreements, or other transactions with any federal agency, the Government of the Virgin Islands, or any instrumentalities or political subdivisions thereof, and expend the proceeds of any [of] the grants or loans for any of its corporate purposes.

(j) The Board may select, purchase, or acquire in the name of the system, the fee or any lesser interest in real property, improved or unimproved, for its purpose and may construct, remodel, and equip office buildings for its use and for investment purposes, and for the use of other departments or instrumentalities of the government, or appropriate private commercial entities as space to be made available for rent or lease from time to time. The Board may negotiate for the purchase of the real estate property by cash, by first mortgage, or by issuing bonds to the extent that the investment does not exceed the limitations of this chapter.

716. Treasurer; legal counsel

(a) The Board of Trustees shall appoint a treasurer of the system who shall perform the following duties:

(1) Act as official custodian of the cash and securities belonging to the system and provide adequate safe deposit facilities for the preservation of the securities and hold the cash and securities subject to the order of the Board;

(2) Receive all items of cash belonging to the system;

(3) Collect the interest and principal on securities acquired by the system and deposit all such amounts in a special trust fund maintained in the name of the board;

(4) Make payments for the various purposes specified in this chapter in accordance with the direction and authorization of the Administrator;

(5) Submit such periodic reports or statements of accounts as the board may require.

(b) The Administrator of the Government Employees Retirement System shall employ, with the advice and consent of the Board of Trustees, an attorney for the system.

717. Investments

(a) [Repealed.]

(b) The Board is vested with the discretionary investment strategy authority to vary the investment criteria set out in this section by no greater than 25% of the aggregate amounts specified. The Board is prohibited from changing the securities ratings specified in this section, however, in its discretion, the Board may invest a maximum of 15% of the portfolio in below investment grade securities**.** The Board shall have the discretion, after determining it is in the best interest of the System to hold securities which have been downgraded to below investment grade, and those securities shall not apply towards the 15% below investment grade allocation. The Board shall make investment decisions in accordance with the "prudent investor standard". The reserves of the system in excess of the cash requirements for current operations shall be invested and reinvested in a diversified portfolio of assets so as to meet the objectives and goals set forth by the Board of Trustees in the System's Investment Policy Statement. The following types of securities and investments, including certain limitations, shall comprise at least 80% of the System's assets:

~~**(b)** The Board is vested with the discretionary investment strategy authority to vary the investment criteria set out in this section by no greater than 25% of the aggregate amounts specified. However, the Board is prohibited from changing the securities ratings specified in this section. The Board of Trustees shall make investment decisions in accordance with the prudent man standard. The reserves of the system in excess of the cash requirements for current operations shall be invested and reinvested in the following types of securities and investments and under the conditions and limitations herein prescribed:~~

(1) Bonds and notes of the United States Government and its agencies and instrumentalities, the obligations of which, both as to principal and interest, are guaranteed unconditionally by the United States Government;

(2) Bonds or notes which are general obligations of any State in the United States, or of any political subdivision thereof; Provided, such political subdivision had a population as shown by the last Federal Census preceding such investment of not less than 30,000 inhabitants; And provided further, That such State or political subdivision thereof has not defaulted for a period longer than 30 days in the payment of interest or principal on any of such general obligations during the period of 10 years next preceding such investment;

(3) Bonds or other obligations which are payable from revenue or earnings specifically pledged therefor of a public utility which is municipally owned either directly or indirectly through any civil division, authority or public instrumentality of the municipality, provided: (a) the municipality has at least 30,000 inhabitants; (b) the utility has been in operation for at least 10 years prior to the date of investment; (c) bonds or other obligations of such utility have not been in default for any period longer than 30 days; (d) the rates for service are fixed and maintained and collected at all times so as to produce sufficient revenue or earnings to pay all operating and maintenance charges and both the principal and interest on such bonds or obligations; (e) the investment in any one issue of such bonds does not exceed 15 percent of such issue, and that the total investment in this type of security shall not at any time exceed 10 percent of the total investment of the system;

(4) Bond or any other evidences of indebtedness issued or guaranteed by any corporation chartered under the laws of the United States, provided that these securities bear a rating of "B"

or better by any two nationally known security concerns. Not more than 5 percent of total investments shall consist of any one issue of these bonds.

(5) Bank loans and convertible securities that bear a rating of "B" or better by any two known security concerns.. *Not more than two percent of total investments shall consist of any one issue of these bonds.

~~**(4)** Bond or any other evidences of indebtedness issued or guaranteed by any domestic railroad corporation, or in equipment trust certificates, provided that these securities and investments bear a rating of BBB or better by any two nationally known security concerns. Not more than 2 percent of total investments shall consist of any one issue of these bonds.~~

~~**(5)** Bonds or other evidences of indebtedness of any domestic public utility corporation, provided that these securities and investments bear a rating of BBB or better by any two nationally known security rating concerns. Not more than 2 percent of total investments shall consist of any one issue of these bonds.~~

(6) Bonds or other evidences of indebtedness of any domestic industrial corporation, provided that these securities and investments bear a rating of BBB or better by any two nationally known security rating concerns. Not more than 2 percent of total investments shall consist of any one issue of these bonds.

(7) Bonds or other obligations of the Commonwealth of Puerto Rico or of the Territories of the United States, provided that the investment in any one issue of bonds of these communities shall not exceed 10 percent thereof, and that the total investment in all securities and investments of any one of such communities shall be limited to 2 percent of the total investment account of the ~~system~~System.

(8) Common and preferred stocks of any corporation charted under the laws of the United States, or of any state, district or territory thereof, if listed on a national securities exchange as defined in the Federal Securities Exchange Act, and are legal for trust funds in the Virgin Islands; or common and preferred stocks of any foreign corporation if listed on any internationally recognized security exchange. The investment in the stock of any single corporation should not exceed one percent of the market value of the total investment of the fund on the date of purchase or be greater than 1 percent of the total outstanding stock of the corporation. The aggregate amount to be invested in common and preferred stocks shall be limited to 70 percent of the market value of the total investment of the System. Investment in foreign stocks shall be limited to 35 percent of the market value of the total investment of the System.

~~**(8)** Common and preferred stocks of any corporation chartered under the laws of the United States, or of any state, district or territory thereof, if listed on a national securities exchange as defined in the Federal Securities Exchange Act, and are legal for trust funds in the Virgin Islands; or common and preferred stocks of any foreign corporation if listed on any internationally recognized security exchange. The investment in the stock of any single corporation should not exceed 1 percent of the market value of the total investment of the fund on the date of purchase or be greater than 1 percent of the total outstanding stock of the corporation. The aggregate amount to be invested in common and preferred stocks shall be limited to 60 percent of the market value of the total investments of the system on the date the~~

~~investment is made. Investment in foreign stocks shall be limited to 10 percent of the market value of the total investment of the system.~~

~~The aggregate amount to be invested in common and preferred stocks shall be limited to 20 percent of the book value of the total investments of the system on the date the investment is made and the investment in any such stocks or a sale thereof shall be approved by at least two-thirds of the membership of the board.~~

(9) **(A)** Viatical senior and/or life settlement policy contract investments provided:

(i) When the investment is in a group of life insurance policies, that the minimum number of measured lives is 100;

(ii) All policies purchased as investments must be issued by insurers licensed to do business in at least on[e] of the United States or its territories;

(iii) The face value of any single policy investment by the system shall not exceed the greater of $5,000,000 or 2% of the aggregate face value of policy investments by the system;

(iv) The aggregate face value of policy investments by the system on any individual life shall not exceed the greater of 10,000,000 or 1% of the aggregate face value of policies purchased as investments by the system; and

(v) Policy investments may include policies on the life of members of the system.

(B) The total purchase price of investments of the system in viaticum life and senior settlement policy contracts shall not exceed 20% of the total investments of the system.

(10) All securities and investments purchased ~~by the said Board~~ shall be registered in the name of the ~~system~~System, and no securities or investments shall be purchased or sold or in any manner hypothecated except by the action of ~~said Board~~the System duly entered in the record of its proceedings. However, notwithstanding any other provision of law, the Board of Trustees may establish a domestic trust that will meet applicable U.S. Internal Revenue Code provisions, for the purpose of receiving, holding, paying, and transferring assets of the System~~system~~ on the continental U.S. mainland.

Subject to the limitations prescribed in this section, the Board shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments that it shall have acquired, as well as the proceeds thereof. All securities and investments shall be acquired by the ~~Board at~~System at prices representing the prevailing market value for such securities and investments.

Except as otherwise provided herein, no trustee and no employee of the System and/or the Board shall have any direct interest in the income, gains or profits of any investments made by the System~~Board~~, nor shall any such person receive any pay or emolument for service in connection with any investment made by the System~~Board~~. No trustee or employee of the System and/or the Board shall become an endorser or surety or in any manner an obligor for money loaned or borrowed from the System~~system~~.

All interest and dividends derived from investments, and any gains from the sale or exchange of investments, shall be credited by the treasurer to the account of the System~~system~~.

(11) Personal loans to members of the Systemsystem. Subject to such rules and regulations that the Board may prescribe, aAny member of the Systemsystem who has contributed for at least 2 years shall have the privilege of borrowing from the retirement sSystem, provided that a member shall not have more than 2 loans in a fiscal year.

The amount which any member may borrow shall not exceed seventy-five (75%) percent of the member's contribution credits in the sSystem and shall not, in any event, exceed the sum of $50,000$75,000. In case of separation from service for any reason, including death or disability of the member, any delinquent balance due on the loan, and any accrued interest thereon, may be deducted from the accumulated contributions of the member.

In case of separation from service for any reason, including death or disability of the member, the balance due on the loan and any accrued interest thereon, shall be deducted from any refund of contributions, annuity, death benefit or any other benefit due to the member or to his beneficiary. The System is rate shall include a charge for insurance on loans against death or total and permanent disability, which development shall effect a cancellation of any unpaid balance of a loan and any accrued interest thereon. The principal amount, together with interest thereon, shall be repaid to the system System in installments at least equal to 5 percent of the member's salary and at a rate that will effect repayment of the loan before the member attains the retirement age 70. Such repayments shall be deducted from the salary of the member at the same time and in the same manner as the member's contributions to the system System are deducted.

Personal loans shall carry interest rates which shall be set in advance, from time to time, by the Board.

(12) Mortgage loans to members or retirees of the system System for initial construction phases of a home, for purchase of a home, or for capital improvements of a home. Subject to such rules and regulations that the board may prescribe, any member of the system who has contributed for at least five years shall have the privilege of borrowing from the retirement system for the initial construction phases of a home (including the construction of cisterns and foundation slabs), for the purchase of a home, or for capital improvements of a home owned by the borrowing member which improvements increase the value of the property. The board shall, to the extent possible, apportion the loans equally between members or retirees residing in St. Croix and members or retirees residing in St. Thomas and St. John. A member or retiree who already owns a home, whether rented or owner-occupied, shall be eligible for a mortgage loan (i) for capital improvements to that home; (ii) for refinancing and amortizing an existing first priority mortgage on that home; and (iii) for purchase of a second residential property. The Board may require as a condition to making a mortgage loan that the mortgagor insure the system's interest as mortgagee of the property with insurance coverage similar to that coverage which is normally required for a mortgage loan by a bank, insurance company or other mortgage lender, including but not limited to title, casualty, and life insurance. The Board System shall provide to the mortgagor an annual mortgage statement indicating the balance owed, and the principal and interest paid on the loan.

(A) Thirty (30) percent of the reserves in excess of the cash requirements for current operations shall be available for investment in loans provided for in this subdivision.

(B) The total amount of loan outstanding to any member shall not exceed ~~two~~ three hundred fifty thousand ($~~2~~350,000) dollars.

(C) ~~Notwithstanding the age of the member, t~~The loan authorized under this subsection, may not extend beyond ~~for~~ a thirty (30) year period or age 70.~~;~~

(D) During construction, until a mortgage is executed a bond shall be given to the ~~system~~ System as security. In addition, the salary of the member shall be deemed collateral security as it becomes due and payable until the principal amount of the loan, together with any interest thereon, are paid in full to the ~~system~~ System pursuant to the provisions of paragraph (g) of this subdivision.

(E) Every loan under this subdivision shall be secured by a first or second priority mortgage upon the land and upon each building or other structure thereon which is to be constructed, to be purchased, or to be improved under the provisions of this subdivision, until the principal amount of the loan, together with any interest thereon, are paid in full to the ~~system~~ System pursuant to the provisions of paragraph (g) of this subdivision. The ~~Board~~ System is authorized to consent to the mortgaging of real property, previously mortgaged pursuant to the provisions of this paragraph to a private lending institution, for the purpose of securing an additional construction or improvement loan from such institution by the member-grantee or for the purpose of refinancing an existing first priority mortgage. If the ~~Board~~ System shall determine that the total value of the land and any improvements thereon is sufficient to protect the interest of the system as holder of a second priority mortgage, then such consent agreement may include subordination of the rights of the ~~system~~ System in the mortgage under this paragraph for all purposes, including foreclosure proceedings by the mortgagee.

(F) Every member, securing a mortgage loan under the provisions of this subdivision shall assign to the ~~system~~ System as further security, until the loan and interest thereon are paid in full, all of his accumulated contributions as well as any other contributions which may accumulate in the ~~system~~ System in his favor; provided, however, that in the case where two persons may hold a mortgage loan jointly, which loan is not insured by a death or permanent disability policy as provided by subparagraph (H), and one shall have died or become permanently disabled, the other may elect to have a portion of the benefits assigned by the deceased or disabled applied each month to the mortgage loan in lieu of a monthly mortgage payment by the surviving or non-disabled party until the entire amount of the assignment is depleted. It is further provided, that in order to assist a member in obtaining a loan pursuant to this paragraph, the following may be permitted:

(1) A member may, in lieu of a cash down payment, assign to the ~~system~~ System his equity in any real property, improved or unimproved, as follows:

(A) Upon the assignment of the equity, as provided in this paragraph, the member shall be eligible for a mortgage loan, if his income is sufficient to meet the loan payments as prescribed in this section; or

(B) If the equity assigned, as provided in this paragraph, by the member is less than the amount that is needed for the down payment, the member may, in order to qualify for a loan under this paragraph, present in cash the difference between the value of the assigned equity and the required down payment.

(2) To establish eligibility for a loan under this paragraph and ability to repay the loan, a member may, present a financial statement projections of rental income to be received from the home that he intends to build or purchase with the loan.

(G) The principal of the loan together with interest thereon shall be repaid to the ~~system~~ System in installments at least equal to 10 percent of the member's annual salary, and at a rate that will effect a repayment of the loan within a period of thirty (30) years. Such repayments shall be deducted from the salary of the member at the same time and in the same manner as the member's contributions to the ~~system~~ System are deducted.

(H) Interest on such loan shall carry interest rates which shall be set in advance from time to time by the Board. In addition to interest, the ~~Board~~ System may charge for insurance on each loan against the eventuality of the death or the total and permanent disability of the member-grantee, which eventually shall result in a cancellation of any unpaid principal of the loan and any accrued interest thereon.

~~**(I)** The board is hereby authorized to have transferred from the Retirement System Mortgage Loan Fund, created and established as a special fund in the Treasury of the Virgin Islands by section 3026 of Title 33, to the Retirement System such amounts as from time to time shall be necessary to restore to the System any losses suffered by it as a result of defaults on any loans or of any other cause incidental to the administration or operation of the loan program under this subdivision (11).~~

~~**(J)** The Governor of the Virgin Islands shall be empowered to temporarily assign any employee of the Government of the Virgin Islands to the Retirement System to assist in the implementation of the program authorized by this subdivision (11).~~

(K) The Board may, to the extent necessary to protect the interests of the ~~system~~System, bid for the purchase of any property on which it holds a second mortgage, provided that the bid does not exceed the combined value of the first and second mortgages on said property. ~~Amounts necessary to meet successful bids shall be paid from the Retirement System Mortgage Loan Fund as created by section 3026 of Title 33 of this Code.~~

(*L*) No member who has obtained a loan under this subdivision (12~~1~~), the amount of which is less than the limit provided in paragraph (~~b~~B) hereof, shall be prohibited because of such loan from obtaining an additional loan for an amount which, when added to the amounts outstanding on any other loan or loans under this subdivision, would not exceed the limit provided in paragraph (~~b~~B) hereof.

(M) Nothing in this subdivision shall prohibit two or more members or retirees from obtaining loans as individual members or retirees on the same property, provided that the value of the property exceeds the combined loans and the income and credit of each applicant justifies the amount of the loan to that applicant.

(N) If a member fails to provide evidence of property insurance coverage to the ~~system~~ System for the collateral interest in the mortgaged property, the ~~Board of Trustees~~System, upon thirty day's notice to the member, shall place the member's mortgage into the forced-placed protection program to protect the ~~system's~~ System's mortgage interest in the mortgaged property. The ~~system~~ System shall recover the cost of the forced-placed insurance premium in the

following manner: (1) the member may pay the cost of the premium in full within ten days of notification that the mortgage has been placed in the forced-placed protection program; or (2) the cost of the forced-placed premium shall be added to the unpaid mortgage principal at an amortized interest rate that is consistent with the mortgage interest rate applicable for that particular mortgage category on the date that the premium is added to the principal.

(13) Chattel mortgages to members or retirees of the ~~system~~System, subject to such rules and regulations as the Board may prescribe, consistent with the following provisions:

(A) Chattel mortgages shall be made for the purchase of new automobiles, new passenger-carrying trucks and vans, new motorcycles or other new passenger-carrying type vehicle.

(B) Interest on such loans shall be set in advance, from time to time, by the Board and shall be repayable in no more than five years.

(C) The total amount of a chattel mortgage on the purchase of a new automobile may not exceed ~~eighteen~~ forty thousand ($~~18~~40,000) dollars.

(D) The chattel mortgage shall be recorded with the Recorder's Office and the U.S. Virgin Islands Police Department (V.I.P.D.) of the respective district and shall be noted on the certificate of title of the vehicle when purchased.

(E) The chattel mortgage shall be secured by the new automobile for which the loan is being obtained and the member shall insure the automobile for which the loan is made with comprehensive coverage for no less than the value of the system's loan on the vehicle and the insurance policy shall make the system as beneficiary to the extent of its lien.

(F) The Board shall not determine that members or retirees who are otherwise qualified to obtain a loan under this paragraph (12) are ineligible for a loan for the sole reason that the vehicle will be used, in whole or in part, as a taxicab.

(G) Regulations shall be promulgated concerning the granting of a chattel mortgage for the purchase of a new automobile and shall include, but not be limited to, down payment requirements for such loans.

(H) If a member fails to provide evidence of comprehensive automobile insurance coverage to the ~~system~~ System for the collateral interest in the chattel mortgage, the ~~Board~~ System upon thirty days' notice to the member, shall place the member's chattel mortgage into the forced-placed automobile insurance protection program to protect the ~~system's~~ System's chattel mortgage interest in the automobile. The ~~system~~ System may recover the cost of the forced-placed automobile insurance premium in the following manner: (i) the member may pay the cost of the forced-placed automobile insurance premium in full within ten days of notification that the chattel mortgage has been placed in the force[d]-placed protection program; or (ii) the cost of the forced-placed automobile insurance premium shall be added to the unpaid chattel mortgage principal at an amortized interest rate that is consistent with the chattel mortgage interest rate applicable to automobile loans on the date that the premium is added to the principal.

(14) Personal loans to members who have retired and are entitled to annuities, provided such loans do not exceed $50,000~~, and that the recipient has no other outstanding personal loan from the system.~~ Retired members are allowed to refinance an existing personal loan once per fiscal year in accordance with the rules established by the Board. The Board shall prescribe rules and regulations for the issuance of such loans which insure a reasonable repayment schedule, at least three collateral options, and rate of interest not less favorable to the recipient as the rate charged for personal loans to members who are not retired. No member who has retired shall be denied a personal loan because of his or her age, race, sex, color, creed, national origin or political affiliation. This payments shall include a charge for insurance on loans against death which developments shall effect a cancellation of any unpaid balance of a loan and accrued interest thereon. The loan authorized under this paragraph shall be payable within a 10 year period.

(15) Loans to members or retirees of the ~~system~~ System solely for the purchase of land, subject to such rules and regulations as the Board may prescribe, consistent with the following provisions:

(A) Secured by a first priority mortgage, provided that such a requirement shall not prevent the obtaining of a loan for the construction of a house on the property pursuant to the provisions of subdivision (11) of this section. The ~~Board~~ System may consent to subordinate its interest in the first priority mortgage to a private lending institution, for the purpose of securing a construction loan for the property.

(B) No land loan may exceed fifty thousand dollars ($50,000).

(C) Notwithstanding the age of the member, the loan authorized under this subsection may extend for a fifteen (15) year period.

(D) Any loan made pursuant to the provisions of this subdivision shall be limited to the purchase of land on which the borrower intends to construct his principal place of residence.

(E) The provisions of subdivision (11) of this section pertaining to loan administration, the Retirement System Mortgage Loan Fund, interest rate, and repayment shall be applicable to a loan made pursuant to this subdivision to the extent they are consistent with this subdivision.

(F) The ~~Board~~ System shall provide to the mortgagor an annual mortgage statement indicating the balance owed, and the principal and interest paid on the loan.

(16) Real property purchased and/or developed by the ~~Board for~~Board for sale for homeownership purposes, provided, that members of the System shall have preference in the purchase of any such real property from the Board.

(17)
Bonds or other indebtedness issued by foreign governments or foreign corporations provided that (a) these securities bear a "B" or better rating by any two internationally known securities rating concerns, and (b) not more than 5 percent of total investments shall consist of any one issue of these bonds, excluding Germany, Canada and Australia. The aggregate amount to have invested in foreign bonds shall be limited to 3 percent of the market value of the total investments of the system.

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~~Bonds or other indebtedness issued by foreign governments or foreign corporations provided that (a) these securities bear a rating of BBB or better by any two internationally known securities rating concerns, and (b) not more than 2 percent of total investments shall consist of any one issue of these bonds. The aggregate amount to be invested in foreign bonds shall be limited to 10 percent of the market value of the total investments of the system on the date the investment is made.~~

(18)

If the Board determines that compliance with this section will result in lower overall anticipated earnings for the System than would be obtainable from alternative investment opportunities that would lead to superior total portfolio performance, , the Board may substitute those alternative investments, to the extent actually available for acquisition, for the investments otherwise specified by this section. Additionally, if adherence to the guidelines specified in this section would conflict with the Board's fiduciary obligations, or would conflict with the "Prudent Investor Standard", the Board may deviate from the guidelines provided in this section... All investment decisions made pursuant to this section shall be made in accordance with the prudent investor standard.

~~If the Board determines during any fiscal year that compliance with this section will result in lower overall earnings for the fund than are obtainable from alternative investment opportunities that would provide equal or superior security, including guarantee of yield, the Board may substitute those higher yielding investments, to the extent actually available for acquisition, for the investments otherwise specified by this section. Additionally, if adherence to the diversification guidelines specified in this section would conflict with the Board's fiduciary obligations, or would conflict with the standards for prudent investment of the fund, the Board may substitute alternative investments. In that case, the Board shall estimate the amount of funds available for investment in substitute alternative investments and the amount of funds invested pursuant to this section and shall submit a statement with regard to alternative investments, reporting the description of the type, quantity, and yield of the investments substituted in its annual report to the Governor and Legislature. All investment decisions made pursuant to this section shall be made in accordance with the prudent investor standard.~~

(19) Notwithstanding any other provision of law, the Board of Trustees may establish the loan lending limits for all categories of loans to members.

(20) Alternative Investments. The Board of Trustees may administer the investment portfolio programs of the system including the Alternative Investment Programs. The maximum amount which may be invested in the Alternative Investment Program is no more than 5% of the total amount of the available investment portfolio.

(A) General; definitions. Alternative Investments are investment opportunities that have not been identified by the traditional public equity or fixed income capital markets. The alternative asset class offers the potential for significantly greater returns than those available in the public markets. The returns are commensurate with risk presented by the class, the as [sic] liquidity, lack of standard historical evaluation data, use of derivative securities and leverage.

Examples of the type of investments considered as alternative or non-traditional investments are:

(i) Private EquityVenture CapitalMezzanineAcquisition/BuyoutsRestructuringSubordinated DebtSpecial Situations

(ii) Natural ResourcesOil and GasAgriculture

(iii) Managed Futures/CommoditiesActiveIndexedLong-Only and Long/Short

(iv) Hedge Funds and Portfolio OverlayMacroLong/ShortEvent-DrivenMarket Neutral

(v) Real Estate

(vi) Financial Futures

(vii) Swaps, to include, interest Rate Swaps and Credit Default Swaps

(viii) Financial Options and swap options

(ix) Non USD currency exposure

(x) Currency forwards

The instruments identified in vi-x above shall not apply to the fixed income portfolio 10% maximum.

(B) Types of Alternative Investments - definitions.

(i) Early-stage means companies that do not have material and sustainable revenues from operations. Early-stage companies frequently have not achieved profitability.

(ii) Intermediate-stage means companies that have achieved success in generating meaningful levels of revenues and are in a revenue/market growth phase with the expectation of achieving profitability. However, due to the heavy capital requirements needed to support growth, these companies may experience negative cash flows.

(iii) Late-stage means companies in development when the rate of growth is slowing but the business is established. Late-stage companies are expected to demonstrate profitability and positive cash flow. These companies often have a dominant position in their primary markets.

(iv) Mezzanine Funds means funds that include investments in subordinated debt or equity of public owned companies. They combine features typically associated with debt instruments, including current income and covenant protections, with the opportunity to enhance returns through warrants, conversion rights or options.

(v) Buyouts/Acquisitions means partnerships that provide funding to acquire majority or controlling interests in a business or product lines from either a public or private company.

(vi) Restructuring/Recovery means investments made in distressed or poorly performing companies, with the intent of initiating a recovery via financial restructuring or the introduction of management expertise. Partnership investments may include debt or equity securities.

(vii) International means funds that make the majority of their investments by strategy and policy outside of the United States.

(viii) Managed Futures means the management of contracts involving the obligations to purchase, or deliver, a specified commodity or financial instrument at a specified price at some specific future period.

(ix) Hedge Funds means partnerships that use investment and risk management skills to seek positive returns regardless of market direction.

(x) Market Neutral Strategies means investments wherein both long and short positions are taken by the manager, and as long as the long position outperforms the short position, market returns have no bearing on the outcome.

(xi) Subordinated Debt means a debt obligation that has unsecured junior claims to interest and principal subordinated to ordinary debentures or other debt obligations of the issuing corporation.

(xii) Special Situations means unusual investment opportunities due to some special development, i.e. a merger, oil discovery, new product development, etc., that is expected to most favorably affect the earnings outlook for the public's psychology with respect to the prospects for a particular company.

(xiii) Venture Capital means capital that is subject to more than a normal degree of risk, usually associated with a new business or venture, made either directly or indirectly in a commingled fund.

(xiv) Real Estate means real estate wherever situated and includes investments in real estate trust.

717a. Payment of loan after retirement

Notwithstanding any provision of law to the contrary, any person who has a personal, mortgage, or mortgage chattel loan from the retirement system may upon retirement, if otherwise entitled, receive his retirement annuity, notwithstanding the fact that he may have an outstanding balance on such loan; Provided, That he agrees to have an amount equal to the amount deducted from his salary for repayment of the loan deducted from his retirement annuity and applied as payment to the outstanding balance of the loan.

718. Financing

(a) The various obligations of the ~~system~~ System shall be financed in accordance with actuarial reserve requirements from contributions by members, contributions by the employer,

interest income, and other income accruing to the ~~system~~System. From time to time, the Board may actuarially determine the rate of contribution for members and employers of the ~~system~~System. After October 1, 2005, the ~~system~~ System may not provide any increases in benefits to members or beneficiaries, unless the administration has identified a specific funding source and concurrently makes a provision for the funding of all future benefit improvements on sound actuarial basis in the annual budget.

(b) Each employee who is a member of the Government Employees' Retirement System shall contribute a percentage of compensation as follows:

(1) Regular members must pay a rate of 9% of his compensation for FY2014, 10% for FY2015, and 11% for FY2016. Thereafter, the rates shall be established by the Board of Trustees..

(2) Any police officer, firefighter, including a firefighter or police officer employed by the Virgin Islands Port Authority, marshal of the Supreme and Superior Court, or corrections officer, eligible employees with the Virgin Islands Water and Power Authority, and eligible employees working with chlorine, sewage or carcinogens must pay a rate of 11% of his compensation for FY2014, 12% for FY2015, 13% for FY2016. Thereafter, the rates shall be established by the Board of Trustees.

(3) The employer shall contribute an amount paid upon a percentage of employees' compensation of 20.50% for FY2014, 23.50% for FY2015, 26.5% for FY2016, 29.5% for FY2017, 32.5% for FY2018, 35.5% for FY2019 and 38.5% for FY2020. Thereafter, the rates shall be established by the Board of Trustees.

~~Each employee who is a member of the Government Employees Retirement System shall contribute a percentage of his compensation as prescribed by the Government Employees Retirement System Board of Trustees. However, the Government Employees Retirement System Board of Trustees may not increase rates, in addition to rates already in effect, by more than 3.0% over a five year period. Each employee who is a member of the Government Employees Retirement System shall contribute a percentage of compensation as follows:~~

~~Provided, however, that after May 23, 1980, any policeman, fireman, including a fireman employed by the Virgin Islands Port Authority, marshal and probation officer of the Superior Court, internal affairs agents, to include but not limited to the Director and Assistant Director and agents of the Internal Affairs Bureau of the Virgin Islands Police Department, peace officer as defined in Title 5, section 3561, Virgin Islands Code, emergency medical technician, a radiology or x ray technician employed by the Department of Health or the Virgin Islands Hospitals, or corrections officer shall contribute ten percent of compensation; provided, further that after December 29, 1986, every eligible employee with the Virgin Islands Water and Power Authority and eligible employee working with chlorine, sewage or carcinogens who elects to participate in the early retirement program shall contribute ten percent of compensation; provided, further, the Governor and Lieutenant Governor of the Virgin Islands shall contribute nine percent (9%) of compensation effective on the date of enactment hereof, which amount shall be deposited into the Elected Governors and Lieutenant Governors Retirement Fund.~~

(c) The employee contribution shall be made in the form of a deduction from compensation, and shall be made notwithstanding that the compensation paid in cash to such employee shall be reduced thereby below the minimum prescribed by law.

(d) Every employee who is a member of the ~~system~~ System shall be deemed to consent to the deduction made from his compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such employee during the period covered by such payment, except as to the benefits provided under this chapter.

(e) A computation shall be made bi-annually of the actuarial reserve requirements for the several annuities and benefits provided in this title for members and the beneficiaries for services rendered, and to be rendered, by the members.

(f) The employer shall make contributions which together with the members' contributions and the income of the ~~system~~ System will be sufficient to provide adequate actuarially determined reserve for the annuities, benefits and administration of the System herein prescribed.

(g)
The employer shall contribute the amount of its employee's compensation as shall be determined by the Board of Trustees beginning with the first pay period thirty days after enactment.
~~The employer shall contribute an amount paid upon a percentage of employees compensation for pay periods starting:~~

(h) Barring any unforeseen circumstances the employer and employee contributions shall be paid to the ~~system~~ System within ten working days after the pay date. Any payment not made within the ten working days, must also include regular interest covering the time period that the payment remains unpaid.

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(i) The amounts contributed by the employer on behalf of an employee shall not be considered as the employee's contributions for any purpose such as, but not limited to, the refund and loan provisions of this chapter.

(j) The employer shall, in addition to any other contributions and payments to the ~~system~~ System required by law, contribute to the ~~system~~ System such sums as may be required to compensate the ~~system~~ System for the costs of any special early retirement program.

(k) The employer shall pay to the ~~system~~ System the total cost of any special, early retirement program in advance of the commencement of the early retirement program. If the employer is in default of payment for any prior special, early retirement program, the ~~system~~ System may not distribute any special early retirement benefits from any additional special, early retirement program until full payment for the previous special early retirement program is made.

(l) The System shall not pay benefits to an employee unless his and the employer's contributions adequately finance benefits and related costs provided under this chapter.

718a. Financial obligations; government

(a) Upon the basis of each annual actuarial valuation and appraisal provided for in this chapter, the Administrator, on or before the fifteenth day of September of each year shall prepare and file with the Budget Director and the Chairperson of Legislature's Committee on Finance and itemized estimate of the amounts necessary to be appropriated by the government to the Government Employees Retirement System for the next fiscal year. Such amounts shall be sufficient to provide for payment in full for (i) the estimated obligations of the government to the retirement system for such respective fiscal years; and (ii) any actual obligations of the government to the retirement system remaining unpaid from the prior fiscal year on such amount to be paid in the next fiscal year. If, the government overpaid its actual obligation to the retirement system for the prior fiscal year, such amount shall be credited as a reduction in amounts that would otherwise be estimated to be due the retirement system from the government. The estimate provided by the Administrator shall reflect the most recent data on annual salary and other related components, and be calculated in accordance with pension benefits authorized as of that time. Such estimate shall be provided by the Administrator within fifteen days of a request by the Budget Director.

(b) Such estimated amounts provided in subsection (a) of this section shall be revised to reflect updated information, including trends in salary growth and investment earnings through September thirtieth of the current fiscal year and resubmitted to the Budget Director and the Chairperson of the Legislature's Committee on Finance on or before December fifteenth of the current fiscal year. A revised actuarial estimate, including an explanation of any changes from the estimates submitted on September fifteenth of the current fiscal year, shall also accompany such re-submission.

(c) By January seventh of the current fiscal year, the Administrator shall notify the Budget Director and the Chairperson of the Legislature's Committee on Finance of his revised estimate of the government's contribution to the retirement system for the current and next fiscal years based on updated information through January thirty-first of the current fiscal year. Such notification shall be accompanied by a revised actuarial estimate, including an explanation of any changes from the estimate submitted on December fifteenth of the current fiscal year.

(d) The estimates provided in subsections (a), (b) and (c) of this section shall be accompanied by an actuarial report stating the assumptions used in calculating each of the estimates, including but not limited to:

(1) projected growth in the billable salary base from the prior fiscal year, in total and by tier for the government and instrumentalities;

(2) composition of the portfolio;

(3) return on common stock investments, expressed as a percentage;

(4) calculation of the actuarial value of common stock;

(5) return on investments other than common stock, expressed as a percentage; and

(6) itemization of the change from the government's prior year contribution, either actual or estimated, due to legislative changes in benefits, tier shift, salary base growth, investment return, and any other factors deemed appropriate for explaining such change.

(e) In addition to the above mentioned reporting requirements, the actuarial report shall also include the following information for the current fiscal year and estimated amounts for the next fiscal year.

(1) the market value and actuarial asset value of equities.

(2) a government reconciliation of the amounts paid and the final amounts for the two prior fiscal years.

(f) The ~~system~~ System shall not provide any new increases in benefits to members or beneficiaries unless the Government has deposited the funding for the prior fiscal year into the bank account of the system and concurrently makes a provision for the funding of all future benefit improvements on a sound actuarial basis in the budget.

718b. Election available to eligible employees

Notwithstanding the provisions of this chapter, participation in the early retirement program shall be voluntary for eligible employees as defined by this subchapter. Any person eligible for early retirement may elect to participate in the regular retirement program with contributions established at ~~six percent~~a rate of compensation determined by the Board. Should such person eligible for early retirement become a participant in the early retirement program, they shall pay the difference in contribution retroactive to December 29, 1986 or for five years, whichever is greater, or to the original date of their commencement of employment.

718c. Transfers of eligible employees

(a) A person eligible for early retirement, transferred to a position which does not qualify as a person so eligible after at least ten years of service as a person so eligible may elect to continue to contribute at the additional rate of compensation, for which he shall receive full benefits after twenty years of service or he may elect to pay ~~six percent~~ a rate of compensation determined by the Board with reimbursement or credit for overpayment, but shall not be eligible for early retirement.

(b) A person in a position which does not qualify as a person eligible for early retirement who is transferred to a position so eligible may elect to contribute at the additional rate of compensation for which he shall receive full benefits after twenty years of credited service, provided that such employee has been eligible and paying at the higher rate for at least ten years. Such employee shall be required at the time he becomes eligible for early retirement at the time he elects to become such pursuant to section 718b of this chapter, to pay retroactive to December 29, 1986 or for credited service to the time he makes such election to pay the difference between the rates for the time he seeks credit.

718d. Persons eligible for early retirement; definition

For the purposes of sections 718a-718c of this chapter person eligible for early retirement means a policeman, fireman, including a fireman employed by the Virgin Islands Port Authority, marshal of the Superior Court, internal affairs agents, to include but not limited to the Director and Assistant Director and agents of the Internal Affairs Bureau of the Virgin Islands Police Department, peace officer as defined in Title 5, section 3561, Virgin Islands Code, emergency medical technician, a radiology or x-ray technician employed by the Department of Health or the Virgin Islands Hospitals, corrections officer, eligible employee with the Virgin Islands Water and Power Authority or eligible employee working with chlorine, sewage or carcinogens as defined in section 702 of this chapter.

719. Accounting

An adequate system of accounts and records shall be established and maintained for the ~~system~~ System that will give effect to the requirements of this chapter. This system shall be integrated, to the extent possible, with the accounts, records and procedures of the employer to the end that the same shall operate most effectively and at minimum expense, and that duplication of records and accounts may be avoided.

All assets of the ~~system~~ System shall be credited according to the purposes for which they are held in the following designated reserve accounts:

(1) ***Members' Contribution Reserve.*** The amounts contributed by the members to this ~~system~~ System after the date of establishment together with any amounts contributed by the members to any superseded retirement fund or system which has been transferred to this ~~system~~ System as provided in section 721 of this title, shall be credited to this reserve. An individual account shall be maintained for each member, to which shall be credited the amounts of his contributions.

Upon the granting of a service retirement annuity, disability annuity or duty-connected death annuity the accumulated contributions to the credit of the member concerned shall be transferred from this reserve to the retirement reserve. Refund and death benefit payments representing member contributions shall be charged to this reserve.

(2) ***Employer's Contribution Reserve.*** The amounts contributed by the employer under the provisions hereof, for service retirement annuity, disability annuities, duty-connected death annuity and death benefits shall be credited to this reserve. All amounts transferred to this ~~system~~ System from any superseded fund or system as provided in section 721 of this title, over and above the amounts of the member's contribution credits in such superseded fund or system, shall be credited to this reserve. Death benefit payments from employer's contributions shall be charged to this reserve.

Upon the granting of a service retirement annuity, duty disability annuities or duty-connected death annuity, an amount representing the excess of the actuarial value of the annuity over the accumulated contributions of the member shall be transferred from this reserve to the retirement reserve. If in any year the retirement reserve is insufficient to cover the reserves for the various annuities being paid by the ~~system~~System, the amount of any deficiency shall be transferred from this reserve to the retirement reserve.

(3) ***Retirement Reserve.*** Upon the granting of a service retirement annuity, disability annuities or duty-connected death annuity, the accumulated contributions of the member and an amount representing the excess of the actuarial value of the annuity over such accumulated contributions, shall be transferred to this reserve from the members' contribution reserve and employer's contribution reserve, respectively. All payments on account of any such annuity and death benefit payment on account of death of a retired member, shall be charged to this reserve. All payments on account of pensions and benefits granted by the superseded retirement fund, as provided in section 721 of this title shall be charged to this reserve, and such pensions and benefits shall be an obligation of this reserve.

All income from investments including gains on investment transactions shall be credited to this reserve. All losses on investment shall be charged to this reserve.

Any excess balance in this reserve, as determined by actuarial valuation as of the close of any fiscal year, shall be applied to reduce the employer's contributions for membership service for the fiscal year next following the date of such valuation by an adjustment in the employer's contribution rate. Any deficiency in this reserve shall be removed by an increase in the amount of employer's contribution rate and shall be removed by a transfer from the employer's contribution reserve.

(4) ***Administration Expense Account.*** All amounts contributed by the employer and employee for the expense of administration of the ~~system~~ System shall be credited to this account. All administrative expenditure shall be charged to this account. The Legislature shall ~~approve the annual operating budgets for the system, and~~ shall provide for the employer's contribution to the system in the yearly budget.

720. Obligations of employer

It shall be the duty of the employer to provide the ~~Board with~~System with records concerning the periods of service, dates of birth, compensation, new entrants into service, deaths, withdrawals and such other data on the employees as is necessary for the proper and effective operation of the system in accordance with the provisions hereof.

It is the intention of this chapter that the payment of the required contributions by the employer and all annuities and benefits granted under the provisions of this chapter are hereby made obligations of the employer to the extent specified herein.

721. Superseded retirement funds or systems

Effective as of October 1, 1959, there shall be transferred to this ~~system~~ System all moneys, securities, loans receivable and other property to which title is held under applicable legislation relating to the existing retirement funds. The trustees of such retirement funds are hereby authorized to make such transfer.

The amounts of contribution credits in the accounts of the employees in the aforesaid retirement funds shall be credited to them on the books of the system created by this chapter, and shall be subject to all provisions and conditions of this chapter. Any amounts remaining, after

such contribution credits have been made, shall be credited to the Employer's Contribution Reserve as provided in section 719 of this title.

Any pensions or benefits being paid by the aforesaid funds shall continue to be paid by the system. Claims for benefits pending at the date of establishment shall be granted in accordance with the aforesaid legislation. Claims for pensions and benefits arising on and after the date of establishment shall be granted in accordance with the provisions of this chapter.

722. Vested interest of employees; effect

Each member shall, by virtue of the payment of contributions to this system, receive a vested interest in such contributions, and in consideration of such vested interest shall be conclusively deemed to undertake and agree to pay the same and to have them deducted from his compensation as herein provided.

723. Annuity and benefit payments

The right of any member or other beneficiary to any annuity, benefit or refund shall accrue as of the date of establishment.

Except as herein specifically otherwise provided, any annuity provided herein shall be payable for life in equal semimonthly installments from the beginning date thereof as fixed by the Administrator, on the fifteenth and last day of each month, first payment to be due as of October 15, 1959; Provided, That for the purpose of effectuating administration, a small pro rata amount may be paid for part of the month when the annuity or benefit payment begins after the first day of the month, or ends before the last day of the month.

No annuity or benefit shall be increased, decreased, revoked or repealed, except for error, or where specifically otherwise provided by this chapter.

724. Penalties for fraud; adjustment of changes or errors in records

(a) Any person who knowingly makes any false statement, or falsifies or permits to be falsified any record of this system, in an attempt to defraud the system, is guilty of a felony, and on conviction shall be fined not less than $25,000 nor more than $100,000 and imprisoned not less than five years, without suspension, modification, or revocation of the sentence prescribed herein, nor more than ten years.

(b) Whenever any act of or attempt to commit fraud is discovered, the Administrator or his designee, shall transmit all evidence of the crime to the Department of Justice, Office of the Attorney General for investigation and prosecution.

(c) Should the fraudulent manipulation of the records result in any member's or beneficiary's receiving from the ~~system~~ System more or less than he would have been entitled to receive had the records been correct, the ~~Board~~ System shall correct the error and, as far as practicable, shall

adjust future payments in a manner that the actuarial equivalent of the annuity or benefit that the member or beneficiary was correctly entitled to receive, shall be paid.

(d) Any person who endorses or cashes any member's retirement check, without written authorization, shall be guilty of a felony and subject to the penalties in subsection (a) of this section.

(e) Any person who withdraws the proceeds of a member's retirement check, which was electronically deposited into the member's account, without written authorization, shall be guilty of a felony and subject to the penalties of subsection (a) of this section.

(f) The acts in subsections (a), (d), and (e) also apply to the endorsement or cashing of retirement checks, or the withdrawal of the proceeds of retirement checks electronically deposited into a member's account, after the member is deceased.

(g) Any person who commits the acts described in subsections (a), (d), (e) shall also be subject to any other criminal and civil penalties that may be contained elsewhere in the Virgin Islands Code.

725. Exemption of rights from legal process; unassignability

(a) The rights of a person to any annuity or benefit or right accrued or accruing to any person under the provisions of this chapter and the various moneys in the ~~system~~ System created by this chapter, are hereby exempted from levy and sale, garnishment, attachment, or any other legal process whatsoever, and shall be unassignable except as in this chapter specifically otherwise provided.

(b) Notwithstanding subsection (a) of this section, the rights and benefits provided in this chapter are assignable only pursuant to actions for the support of a child, spouse, or other dependent, as ordered by any court of competent jurisdiction.

725a. Increase in pensions, effective July 1, 1956

An increase of ten ($10.00) dollars a month is hereby authorized and granted to each pensioner of the Government of the United States Virgin Islands who is a former Government Employee not covered under the Retirement Law of the Municipality of Saint Thomas and Saint John or the Municipality of Saint Croix. The Commissioner of Finance is hereby authorized to pay this increase from the Retirement Fund effective July 1, 1956.

726. Cost-of-living bonus for pensioners, effective July 1, 1957

Each former official and employee of the Government of the United States Virgin Islands, or of the Municipality of Saint Thomas and Saint John or of the Municipality of Saint Croix, who is

receiving a pension of less than seventy-five ($75.00) dollars a month from the Government of the United States Virgin Islands by virtue of any retirement law or by special legislation is hereby granted a cost-of-living bonus of ten dollars per month, effective July 1, 1957.

727. Cost-of-living bonus for pensioners, effective July 1, 1961

Subject to the limitation set forth below, every person who is now receiving or may hereafter receive an annuity or a pension from the Government of the United States Virgin Islands, by virtue of any retirement law or by special legislation, is hereby granted a cost-of-living bonus of $10 per month, effective on and after July 1, 1961; Provided, however, That this cost-of-living bonus shall be in addition to the cost-of-living bonus authorized by section 726 of this title; And provided further, That in no case shall any annuity or pension hereby affected plus the bonus heretofore and herein granted exceed $100 per month. In the cases of persons now receiving or who may hereafter receive an annuity and a special pension, the amounts of such annuity and special pension shall be combined for the purpose of determining eligibility for this cost-of-living bonus. In such cases, the total cost-of-living bonus shall not exceed $10, and shall be paid from the Pension Fund. The cost-of-living bonus of $10 per month herein authorized shall not be applicable to pensions granted by special legislation approved on and after January 1, 1962.

728. Cost-of-living bonus for pensioners, effective July 1, 1966

Every person on July 1, 1966, who is receiving or who after July 1, 1966, may receive an annuity from the Government of the United States Virgin Islands by virtue of any retirement law and every person who, prior to January 1, 1966, received a pension from said Government by virtue of special legislation, including in both instances cost-of-living bonuses and increases heretofore granted, is granted a cost-of-living bonus as follows:

(a) Every person receiving such annuity or pension not in excess of $75 per month is granted a bonus of $10 per month; and

(b) Every person receiving such annuity or pension in excess of $75 per month is granted a bonus of $15 per month.

729. Supplementary annuity to employee annuitants

(a) Employees who retired on service retirement annuity prior to July 1, 1970, who were at least 55 years of age at date of retirement shall be entitled to receive a supplementary annuity under this section.

(b) The Board may set cost-of-living increases for annuitants and pensioners and determine when the annuity should be paid on the basis of the most recent actuarial valuation, the Consumer Price Index, or other economic studies or evaluations that the Board may determine are relevant.

(c) In the case of a member on retirement who is receiving, in addition to the retirement annuity from this system, a special pension grant from the government not paid by the retirement system, the following conditions shall govern:

In the case of such retired member, payments on the supplementary annuity herein provided shall be deferred until the date when the retirement annuity payment being made by the system plus the total accumulation of supplementary annuity additions thereon become equal to the sum of (1) the retirement annuity payable by the system and (2) the amount of the special pension. Thereafter, the supplementary annuity additions shall become payable to such retired member at the rate herein stated based upon the original grant of the retirement annuity by the system as in the case of other retired members who receive no special pension.

(d) In the case of members on disability retirement, the increase shall be 1 percent of the disability annuity times the number of full years that he has been in receipt of such annuity prior to his attainment of age 60, and 1 percent of the disability annuity for each year after attainment of such age.

(e) The supplementary annuity payable under this section shall be charged to a retired ~~employees~~employee's supplementary annuity reserve. This reserve shall be credited with investment earnings above 4 percent per annum, as established and earned by the system in each fiscal year to fund these annuities.

729a. Cost-of-living increase for certain annuitants and pensioners

Every person who is receiving an annuity computed pursuant to the retirement law in existence prior to July 1, 1970, or who is receiving a special pension (regardless of when granted), is hereby granted a cost-of-living increase of ten percent (10%) in the amount of his annuity or pension; Provided, That no pension increase shall be granted to a person who is also receiving a retirement annuity, but said annuity shall be increased if it qualified for same hereunder.

730. Automatic increase in service or disability retirement annuity

Any member upon withdrawal from service on or after July 1, 1970, and retiring on a service or disability retirement annuity, shall be entitled to an annual increase in his basic retirement annuity as defined herein while he is in receipt of such annuity.

(a) The term basic annuity shall mean the service retirement annuity or disability annuity of the amount fixed and payable at date of retirement of the member.

(b) The Board may set cost-of-living increases for annuitants and pensioners and determine when the annuity should be paid on the basis of the most recent actuarial valuation, and the Consumer Price Index.

~~**(c)** The annual increase in the case of a disability annuity shall be 1 percent per year prior to the member's attainment of age 60 and 1 percent per year thereafter.~~

(d) [Deleted.]

731. Accumulated sick leave

(a) Any member having accumulated and unused sick leave at date of retirement shall be entitled to service credit towards the service retirement annuity to which the member may be entitled. The credit for accumulated and unused sick leave shall be 1 month for any period of 11 to 20 days inclusive of such leave and month for any period of 5 to 10 days inclusive except that the credit for accumulated and unused sick leave shall be one year for any period consisting of 2080 hours. Less than 5 days of such unused sick leave shall not be considered for such credit.

(b) If at the date of retirement a member is indebted to the Government for advanced or unearned sick leave, ten (10%) percent of the amount of each basic annuity payment shall be deducted until the member shall have reimbursed the Government in full for the value of such advanced sick leave at the rate of compensation received by the member immediately prior to his date of retirement.

~~**732. Special pensions death benefit provisions**~~

~~The pension or annuity of a deceased government employee, other than one granted pursuant to chapter 27 of Title 3 of the Code, shall be payable to his widow until her remarriage or death. If said widow dies leaving a dependent child or children, such pension or annuity shall be paid to such dependent child or children.~~

~~For the purposes of this section:~~

~~**(1)** The term widow means a surviving wife of an individual, who either (a) shall have been married to such individual for at least two years immediately preceding his death or (b) is the mother of issue by such marriage, and who has not remarried.~~

~~**(2)** The term dependent child means an unmarried child, including a dependent stepchild or an adopted child, who is under the age of eighteen years or who because of physical or mental disability is incapable of self-support.~~

~~Questions of dependency and disability arising under this section shall be determined by the Governor. The Governor may order or direct at any time such medical or other examinations as he shall deem necessary to determine the facts relative to the nature and degree of disability of any dependent child who is an annuitant or applicant for annuity or pension under this section, and may suspend or deny any such annuity for failure to submit to any examination.~~

733. Coverage for members of the Judiciary

(a) Membership in the system for members of the Judiciary shall be optional, and shall be made available to members of the Judiciary who were in service after January 28, 1977. Salary deductions for new members of the system, at the rate prescribed herein, shall begin from the

first payroll period following the filing of the application with the Administrator and credited service as a member of the system shall begin to accrue. Any new member who desires credit for service rendered as a member of the Judiciary shall contribute to the system ~~11~~15% of his annual compensation.

(b) Each person who becomes a member of the Judiciary after January 28, 1977, and who is then not a participant by previous appointment, shall automatically become a member of the system and be subject to compensation deductions hereunder, unless, within 90 days from the date he becomes a member of the Judiciary, he filed with the Administrator a written notice of election not to participate.

(c) Participation in the system on the part of any member of the Judiciary shall continue until the date he becomes an annuitant, dies or accepts a refund of his contributions thereto.

Notwithstanding the provisions of this chapter, proportionate contributions shall be made by each member of the Judiciary who has completed six years of service if the member elects to receive pension credit for any period for which such member was not covered by the system. However, the proportionate contributions shall be made retroactively for the respective period of service, with the contributions being the amount of ~~11~~15% of the ~~members'~~ member's annual compensation.

(d) The rate of contribution to the system on the part of a member of the Judiciary who becomes a member of the system shall be ~~11~~15% of his annual compensation. This rate shall apply to service rendered beginning from the first date the member takes the oath of office as a member of the Supreme or Superior Court of the Virgin Islands. ~~For purposes of this chapter, service as a member of the Judiciary during any part of a calendar year shall be deemed to be a year of credited service; Provided, that contributions are made for the full calendar year.~~

(e) Notwithstanding any other law, the conditions governing eligibility for service retirement for any member of the Judiciary and the amount of the annuity shall be as stated in this section as follows;

(1) Vesting in a service retirement annuity shall attach upon completion of one (1) term. Any member shall be eligible for a judicial annuity ~~service retirement~~ beginning at age 50, and age 55 for any new member with less than ten (10 years of credited service as of October 1, 2012, ~~on a judicial annuity~~ equal to the following rates;

(A) after one (1) term in office, 30% of his compensation while in office;

(B) after two (2) terms in office 60% of his compensation while in office;

(C) after three (3) terms in office, 90% of compensation while in office; and

(D) after 20 years in office, 100% of his compensation while in office.

(2) ~~It is further provided that a member of the Judiciary shall receive credit at the rate of five percent (5%) for any fractional portion of any term that has not been completed. As it applies to this subsection fraction portion shall mean no less than one calendar year during any~~

~~particular term.~~ In the computation of total credit for prior service or membership service, nine months or more of service shall constitute one year of service; six to eight months inclusive, shall constitute three-quarters (.75) of a year; three to five months inclusive, shall constitute one-half (.50) of a year; less than three months shall constitute one-quarter (.25) of a year not more than one year service credit shall be granted for all service rendered during a fiscal year. Fifteen days or more of service during any month shall constitute a month of service; five to fourteen days inclusive, shall constitute one-half (.50) of a month; less than five days, inclusive, shall constitute one-quarter (.25) of a month.

(3) For the purposes of this subsection, the term compensation shall mean the highest rate of compensation, received by that member of the Judiciary during his tenure and shall increase only as provided under this chapter.

(f) In the case of any member of the Judiciary who shall become separated from service before he completed an aggregate of one (1) term as a member of the Judiciary, the total amount paid by the member, shall upon his application, be returned to him or the Judicial service shall be credited to the member's service as provided in the provisions of this chapter. No member of the Judiciary shall thereafter receive credit for the service unless he again becomes a member of the Judiciary and pays back into the system the amount so returned.

~~From time to time the Board may determine the rate of interest being earned on the contributions of members of the Judiciary, and may credit all contributions of members with interest at the net earnings rate, compounded annually or in accordance with the provisions of section 702(k) of this chapter.~~

(g) Nothing contained in this chapter shall be construed to prevent any person eligible therefore from simultaneously receiving an annuity computed on the basis of years of service other than as a member of the Judiciary and an annuity computed in accordance with this section; nor shall anything contained in this chapter be construed to prevent a member of the Judiciary from receiving, while serving in the Judiciary, an annuity for non judicial service.

(h) As used in this section, the term Judiciary means the judges and magistrates of the Superior Court and the justices of the Supreme Court of the Virgin Islands.

(i) In no case shall service other than as a member of the Judiciary be considered service for the purposes of this section, nor shall service as a member of the Judiciary be considered service for the purpose other than as specified in this section.

(j) The provisions of this section with respect to conditions governing membership in the system, rates of contribution, conditions for retirement and rates of annuity, as prescribed by this chapter, shall apply to all membership of the Judiciary in service on January 28, 1977, and to those who become members of the Judiciary thereafter. All other sections of this chapter to the extent that they confer additional rights or benefits in the system to participants therein, shall apply with equal force to members of the Judiciary who are members of the system.

(k) No credited service benefit may be paid to any member of the judiciary until the System has received retirement contributions payments from the employer and employee.

734. Continuing obligation of the Government

All payments required by this chapter to be made by the employer to the retirement fund are continuing obligations of the Government.

735. Tax exemptions of the System; protection from judicial process

(a) All property, including funds of the System, shall be exempt from levy and sale by virtue of execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the System be a charge or lien upon its property. However, this subsection shall not apply to or limit the right of bond holders or mortgage holders or other lending institutions to pursue any remedy for the enforcement of any pledge or lien given by the System on its fees, revenues, or other income or any other funds.

(b) In that the purpose for which the System is created and exercises its powers for public purposes, the property of the System, its income, and its activities, shall be exempt from all taxes and special assessments of the Government of the Virgin Islands or any political subdivisions thereof.

736. Failure or refusal to pay

(a) Neither the government nor any agency, department, or instrumentality may fail or refuse to pay the employer's contribution required by this chapter within the applicable time limitation.

(b) Whenever any agency, department[,] instrumentality, or employer fails to make timely contributions, interest shall accrue on the amount of the contributions not paid based on the system's domestic fixed income investment rate of return~~ not to exceed the rate of 9%~~.

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737. Unclaimed benefits; redeposit of proceeds; reversion; return to credit of claimant; lump sum benefits

(a) Whenever a person entitled to a payment of a member's accumulated contributions or any other benefit fails to claim the payment or cannot be located or a Miscellaneous Disbursement Voucher is cancelled, the payment due to the member shall be disbursed in accordance with the provisions of this section.

(b) Whenever the amount of a benefit payable by this system cannot be determined because the recipient cannot be identified, or information necessary to determination of the benefit to be paid cannot be ascertained, the accumulated contributions of the member, on whose account the benefit is payable, shall be disbursed in accordance with the provisions of this section.

(c) The amounts described in subsections (a) and (b) must be held, or if a Miscellaneous Disbursement Voucher has been drawn, the voucher must be deposited in the retirement fund and held for the claimant without further accumulation of interest. The redeposit does not operate to reinstate the membership of the person with respect to whose membership the refund or

benefit was payable in this system. If the proceeds are not claimed within four years after the date of redeposit, they shall revert to, and become part of, the reserve established pursuant to section 719(3). Transfer to this reserve shall be made September 30 following the expiration of the four year period.

The Board may at any time, after transfer of the proceeds to the described reserve upon receipt of proper information satisfactory to it, return the proceeds so held in reserve to the credit of the claimant, to be administered in the manner provided for under this system.

(d) For lump-sum death benefits administered in accordance with subsection (c), where the system has caused notice of the benefits to be published in a newspaper of general circulation for at least three times a week for four consecutive weeks, and that person has not claimed the benefits, payment may be made to the next entitled beneficiary or beneficiaries, upon receipt of valid claims, if two years have passed since the date of death. Payment made by this system in good faith and in reliance on those claims, notwithstanding that it may fail to discover a person otherwise entitled to share in the benefits, shall constitute a complete discharge and release of this system from further liability for the benefits.

738. Claims; time period; identification and location of beneficiaries

The Board may fix the time as it considers reasonable during which claims for benefits under section 737 may be made. Anyone who is provided a claim form must be given the same amount of time in which to file it as any other claimant. The Board's duty to identify or locate any member of any class of beneficiaries must be at a minimum consistent with section 737(d).

739. Order of payment; absence of beneficiary designation

(a) If a person had no beneficiary designation in effect on the date of death, any benefit payable shall be paid to the survivors in the following order:

(1) The decedent's spouse.

(2) The decedent's natural or adopted children, including a natural child adopted by another who meets the following criteria:

(A) The natural parent and adopted child lived together at any time as parent and child or the natural parent was married to or was cohabiting with the other natural parent at the time the child was conceived and died before the birth of the child; and

(B) The child was adopted by the spouse of either of the natural parents or after the death of either of the natural parents or the child is a natural adopted by another as that phrase is defined or construed in title 15 Virgin Islands Code, chapter 3, relating to Descent and Distribution of Decedent's Estate.

(3) The decedent's parents.

(4) The decedent's brothers and sisters.

(b) If a deceased person had no effective beneficiary designation and there are no survivors in the groups specified in subsection (a) who are entitled to the benefit under this section, the benefit shall be paid to the estate of the decedent, if the estate is either probated or subject to probate. Any benefit payable by the system may be paid either to the estate or to the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, or personal representative.

740. Statute of limitations

Notwithstanding title 5 Virgin Islands Code, chapter 3, any payment due the retirement system for services, repayment of loans or mortgages, or for the repayment of any amounts due to error or overpayment are not extinguished by the statu[t]e of limitations and shall accrue a maximum interest of thirty-three and one third percent per annum.