

# VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

## CHAPTER 502

*An Act to amend and reenact § 51.1-168 of the Code of Virginia, relating to the Virginia Retirement System; maximum benefits.*

[S 51]

Approved April 6, 2000

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.1-168 of the Code of Virginia is amended and reenacted as follows:**

§ 51.1-168. Maximum benefits; mandatory payment of allowance.

A. Notwithstanding any other provision of law, earned compensation for any employee who becomes a member of the Retirement System (i) prior to the ninetieth day after the opening date of the 1996 Session of the General Assembly, on whose behalf employee or employer contributions are made into the Retirement System, and for whom annual compensation is used for computing any benefit, shall not exceed \$265,000, the amount determined by the Commissioner of the Internal Revenue Service pursuant to I.R.C. § 401 (a) (17) as the limitation on earned compensation; or (ii) on or after the ninetieth day of the opening date of the 1996 Session of the General Assembly, on whose behalf employee or employer contributions are made into the Retirement System, and for whom annual compensation is used for computing any benefit, shall not exceed \$160,000, or any amount determined by the Commissioner of the Internal Revenue Service pursuant to I.R.C. § 401 (a) (17) as the limitation on earned compensation in effect in subsequent calendar years.

B. Notwithstanding any other provision of law, the annual benefit under the Retirement System of a member and any related death or other benefit shall, if necessary, be reduced to the extent required by § 415 (b) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury pursuant to § 415 (d) of the Internal Revenue Code. *Any adjustment pursuant to § 415 (d) of the Internal Revenue Code shall apply to all members including those who have died, retired, or otherwise terminated service with a nonforfeitable right to a retirement allowance before the effective date of such adjustment.* If an employee participating in the Retirement System is also a participant in another retirement plan sponsored or maintained by an employer participating in the Retirement System and subject to the limitations under § 415 of the Internal Revenue Code, such employer shall apply the combined limit test required by § 415 (e) of the Internal Revenue Code, until the repeal of such section is effective. Whenever a reduction in annual additions or benefits is required to meet the annual benefit limit required by § 415 (b) of the Internal Revenue Code or the combined limit test, the annual additions or annual benefits under such employer's other plan or plans will be reduced before benefits under the Retirement System.

C. Notwithstanding any other provision of law, the annual additions to the optional retirement plans described in Article 4 (§ 51.1-125 et seq.) of Chapter 1 of this title shall be reduced, if necessary, to the extent required by § 415 (c) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury pursuant to § 415 (d) of the Internal Revenue Code. If an employee participating in an optional retirement plan is also a participant in another retirement plan sponsored or maintained by an employer participating in the Retirement System and subject to the limitations under § 415 of the Internal Revenue Code, such employer shall apply the combined limit test required by § 415 (c) of the Internal Revenue Code and the combined limit test required by § 415 (e) of the Internal Revenue Code, until the repeal of such section is effective to all such plans, to the extent required by § 415 of the Internal Revenue Code. Whenever a reduction in annual additions or annual benefits is required to comply with the limitations of § 415 of the Internal Revenue Code, the annual additions or annual benefits under such employer's other plan or plans will be reduced before benefits under the optional retirement plan.

D. Any vendor for an optional retirement plan established by Article 4 of Chapter 1 of Title 51.1 shall (i) request and maintain the records needed, (ii) perform the testing services required to assure compliance with the limitations described in § 415 (c) of the Internal Revenue Code, including testing required where the employer maintains or sponsors another plan that must be tested together with the optional retirement plan, and (iii) advise the employer of any contribution or benefit that exceeds the applicable limitation.

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