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**SENATE BILL NO. 152**

Offered January 12, 2000

*A BILL to amend the Code of Virginia by adding in Chapter 1 of Title 51.1 an article numbered 10, consisting of sections numbered 51.1-170 through 51.1-176, relating to a deferred retirement option program.*

Patrons—Stolle, Colgan, Hawkins, Holland, Houck, Howell, Marye, Miller, K.G., Rerras, Saslaw, Schrock and Williams; Delegates: Drake and Tata

Referred to Committee on Finance

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

**1. That the Code of Virginia is amended by adding in Chapter 1 of Title 51.1 an article numbered 10, consisting of sections numbered 51.1-170 through 51.1-176, as follows:**

*Article 10.**Deferred Retirement Option Program.**§ 51.1-170. Definitions.*

*As used in this article, unless the context requires a different meaning:*

*"Eligible member" means a member who satisfies the requirements of § 51.1-171 and is a (i) qualified state employee, (ii) state police officer, (iii) teacher, (iv) qualified local employee, or (v) judge as that term is defined in § 51.1-301.*

*"Member" means a member of the Virginia Retirement System, the State Police Officers' Retirement System as described in Chapter 2 (§ 51.1-200 et seq.) of this title, the Virginia Law Officers' Retirement System as described in Chapter 2.1 (§ 51.1-211 et seq.) of this title, or the Judicial Retirement System as described in Chapter 3 (§ 51.1-300 et seq.) of this title.*

*"Participant" means an eligible member participating in the program.*

*"Program" means the deferred retirement option program established pursuant to this article.*

*"Qualified local employee" means an employee of a political subdivision who is regularly employed full time on a salaried basis and whose tenure is not restricted by his having a temporary or provisional appointment.*

*"Qualified state employee" means an employee as defined in § 51.1-201 or in § 51.1-212, a member of the Judicial Retirement System pursuant to § 51.1-302, or a state employee as defined in § 51.1-124.3, but not the Governor, Lieutenant Governor, Attorney General, members of the General Assembly, or any person described in subdivision 3, 4, or 21 of § 2.1-116.*

*§ 51.1-171. Participation in program.*

*A. An eligible member who is eligible to retire and receive an unreduced service retirement annuity, pursuant to this chapter or Chapter 2, 2.1, or 3 of this title depending on the retirement system of which such person is a member, may, if he remains an employee in his current position in lieu of retiring, elect to participate in the program.*

*B. An election to participate in the program shall be on a form prescribed by and filed with the retirement system. An election shall not be made more than once and shall state the period that the eligible member wishes to participate in the program. The period shall be a minimum of twelve months and be in twelve-month increments. The maximum period that an eligible member may participate in the program is sixty consecutive months. An election under this section is irrevocable after filing. The filing of an election under this section shall not be considered for any purpose an application for retirement, and a participant shall not be considered a retiree for any purpose because of filing an election to participate in the program.*

*C. The effective date of a participant's participation in the program shall be the first day of the month following the month in which his election is received and approved by the retirement system. The retirement system shall approve the election filed by any eligible member.*

*§ 51.1-172. Computation of participant's service and annuity.*

*A. A participant shall remain a member of the retirement system during the period of his participation in the program, unless he terminates his membership under § 51.1-128. A participant shall not, during his period of participation in the program, accrue creditable service relating to his participation in the program. A participant shall not make member contributions to the retirement system as described in § 51.1-144, but the Commonwealth or the member's employer, if applicable, shall make contributions to the program for the participant's service performed during the period of his participation in the program. The participant and his employer shall retain any obligation to pay the group life insurance premiums, as described under Chapter 5 (§ 51.1-500 et seq.) of this title, and*

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SB152

60 contributions to the health insurance credit program, as required under Chapter 2 (§ 2.1-9 et seq.) of  
61 Title 2.1, during the participant's participation in the program.

62 B. For purposes of the program, the computation of the service retirement annuity of a participant  
63 shall be determined as of the effective date of his participation. A participant shall not be eligible to  
64 receive a post-retirement increase, including post-retirement supplements provided for under § 51.1-166,  
65 otherwise made applicable to retired persons during the period of his participation in the program.

66 C. A member shall not be eligible to purchase service for creditable service after the date of the  
67 filing of his election to participate in the program.

68 § 51.1-173. Benefits under the program.

69 A. The retirement system shall credit monthly, during the period of the participant's participation in  
70 the program, to a deferred retirement option account for the participant an amount equal to a  
71 percentage of the amount the participant would have received that month under a standard service  
72 retirement annuity if he had retired on the effective date of his participation in the program. The  
73 percentage shall be determined as of July 1, 2001, by the retirement system's actuary and approved by  
74 the Board. The Board shall approve the greatest percentage that does not cause the program to  
75 materially affect employer contribution rates. In no event shall the percentage exceed 100 percent. If the  
76 percentage is not initially set at 100 percent, it shall be reviewed periodically and increased, if  
77 appropriate, until it is 100 percent. In no event shall a periodic review of the percentage result in a  
78 reduction in the percentage.

79 B. When a participant retires under the retirement system, he shall be entitled to the accumulated  
80 amount in his deferred retirement option account, including creditable interest. The accumulated amount  
81 shall be payable in a lump sum, in periodic installments, as an additional actuarially equivalent monthly  
82 income, or as a direct rollover as provided under regulations promulgated under the Internal Revenue  
83 Code, at the option of the participant. The Board shall determine the number and frequency of  
84 installment payments.

85 C. If a participant dies during his participation in the program or after his participation but before  
86 his retirement, the decedent's designated beneficiary, as designated under this chapter, shall be entitled  
87 to the accumulated amount in the decedent's deferred retirement option account, including creditable  
88 interest. The designated beneficiary shall also be entitled to a death benefit based on the decedent's  
89 compensation and years of service on the effective date of his participation in the program and on his  
90 age at the date of his death.

91 D. Payment of the benefits provided under the program shall be in addition to any annuity otherwise  
92 payable under this title.

93 § 51.1-174. Termination of participation in program.

94 Participation in the program terminates upon the first to occur of (i) a participant's retirement, (ii)  
95 his death, or (iii) the expiration of the period for which his participation in the program was approved.

96 § 51.1-175. Benefits for service after program participation.

97 A. Any creditable service accrued after termination of a participant's participation in the program  
98 and before his retirement shall be credited in the retirement system as provided in this section.

99 B. At the time a former participant retires, or dies if prior to retirement, the retirement system shall  
100 compute the value of the additional creditable service accrued after termination of his participation in  
101 the program at the rate provided under § 51.1-155, § 51.1-206, § 51.1-217, or § 51.1-306, in accordance  
102 with the retirement system the former participant was a member when accruing such additional  
103 creditable service, based on the lesser of (i) the three years of service after the former participant's  
104 termination of program participation or (ii) the former participant's actual years of service after the  
105 termination, in which the member received the highest annual creditable compensation. The retirement  
106 system shall add the amount computed under this subsection to the amount determined on the effective  
107 date of his program participation, and the sum shall be payable, subject to actuarial reduction if  
108 applicable, as the monthly annuity payment.

109 § 51.1-176. Interest.

110 Interest shall be credited to a participant's deferred retirement option account during the period of  
111 his participation in the program and until all benefits are distributed or until the account's annuitization  
112 into a monthly retirement income pursuant to subsection B of § 51.1-173. Interest shall be based upon  
113 an annual, prorated rate equal to the actuarial earnings assumption.

114 2. That the provisions of this act shall become effective on July 1, 2001.