

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 689

An Act to amend and reenact §§ 22.1-23 and 51.1-155 of the Code of Virginia, relating to retirement allowance for teachers.

[H 1589]

Approved March 26, 2001

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-23 and 51.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-23. Duties in general.

The Superintendent of Public Instruction shall:

1. Serve as secretary of the Board of Education;
2. Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;
3. Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;
4. *At least annually, survey all local school divisions to identify critical shortages of teachers and administrative personnel by geographic area, by school division, or by subject matter, and report such critical shortages to each local school division and to the Virginia Retirement System; and*
5. Perform such other duties as the Board of Education may prescribe.

§ 51.1-155. Service retirement allowance.

A. Retirement allowance. - A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service.

2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than thirty years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of thirty years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3 of this subsection.

3. Early retirement; applicable to employees of certain political subdivisions. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals thirty or more years but the sum of his age at retirement plus his creditable service at retirement is less than ninety, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to ninety or more had he remained in service until such date. If the member has less than thirty years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least thirty years of creditable service and his then creditable service plus his then attained age would have been equal to ninety or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2 of this subsection. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

4. Additional allowance. - In addition to the allowance payable under subdivisions 1, 2, and 3 of this subsection, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age fifty-five or (ii) the actuarially calculated present value of the

member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in ~~subdivision~~ *subdivisions 2 and 3*, if a beneficiary of a service retirement allowance under this chapter is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

2. Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.

3. *Any person receiving a service retirement allowance under this chapter, who is hired as a local school board instructional or administrative employee required to be licensed by the Board of Education, may elect to continue to receive the retirement allowance during such employment, under the following conditions:*

(a) The person's retirement allowance is based in whole or in part on service as a local school board instructional or administrative employee required to be licensed by the Board of Education;

(b) The person has been receiving such retirement allowance for a certain period of time preceding his employment as provided by law;

(c) The person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local school division within the Commonwealth; and

(d) At the time the person is employed, the position to which he is assigned is among those identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

2. That the Board and the Joint Legislative and Audit Review Commission shall jointly determine the period of time preceding employment, required pursuant to subdivision B 3 (b) of § 51.1-155, that will result in there being no negative fiscal impact to the Commonwealth pursuant to the provisions of this act. Such determination shall be made in consultation with the actuary of the Retirement System, the actuary of the Joint Legislative and Audit Review Commission, the Superintendent of Public Instruction, and the chairmen of the Senate Committee on Finance and the House Committee on Appropriations. The period of time determined shall be consistent with the federal tax qualification of the plan. The Board may adopt such jointly determined period of time for purposes of providing for a person to continue to receive his retirement allowance while employed as a local school board instructional or administrative employee required to be licensed by the Board of Education and pursuant to all other elections or conditions of this act. Only if such person has been retired for such jointly determined period of time shall such person be permitted to elect to continue to receive his retirement allowance while employed as a local school board instructional or administrative employee as provided under this act, unless the general appropriation act in effect at that time provides or authorizes a period of time such person shall be retired that is less than such jointly determined period of time.

3. That the Virginia Retirement System, in consultation with the Superintendent of Public Instruction, shall promulgate all reasonable and necessary policies and procedures to carry out the provisions of this act relating to § 51.1-155.

4. That an emergency exists and this act is in force from its passage.

5. That the provisions of this act shall expire on July 1, 2006.