

013207536

## SENATE BILL NO. 1231

Offered January 10, 2001

Prefiled January 10, 2001

*A BILL to amend and reenact §§ 2.1-20.1:5, 51.1-205, and 51.1-206 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 51.1-206.1, relating to the State Police Officers' Retirement System.*

Patrons—Stolle; Delegate: Rapp

Referred to Committee on Finance

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

**1. That §§ 2.1-20.1:5, 51.1-205, and 51.1-206 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 51.1-206.1 as follows:**

§ 2.1-20.1:5. Optional supplemental health insurance credit for retired state employees.

A. As used in this section, "lump sum payment amount" means the amount a state employee is entitled to be paid upon the date of retirement from state service, in accordance with the applicable rules and procedures of the employee's agency or institution, for any (i) accumulated annual leave balance, (ii) accumulated sick leave balance, and (iii) wages and salary for any period for which the employee worked and has not yet been paid.

B. Any state employee retiring from service pursuant to subsection A, B or D of § 51.1-153, § 51.1-156, subsection A or B or D of § 51.1-205, or subsection A, B or B1 of § 51.1-305 on or after July 1, 1999, who participates in the state health insurance plan, shall have the option to require that his lump sum payment amount be credited to a supplemental health insurance credit account which would qualify under Internal Revenue Code § 125 to be used to supplement the amount of the monthly health insurance credit provided pursuant to § 2.1-20.1:2. Such option shall be irrevocably exercised on or before the employee's last day of service.

C. Amounts credited to supplemental health insurance credit accounts shall be deposited in a special fund in the state treasury. Interest accruing on amounts in the special fund shall be credited pro rata among the accounts. Amounts shall be paid from the special fund at the request of the Department of Human Resource Management, which shall determine, in cooperation with the Board of Trustees of the Virginia Retirement System, the amount required to be withdrawn from an electing retired employee's supplemental health insurance credit account in order to cover, in conjunction with the health care credit, the premium for the retiree-only or family health insurance coverage.

D. Amounts in a retiree's supplemental health insurance credit account shall be exempt from taxation and exempt from execution, attachment, garnishment or any other process to the same extent, and subject to the same conditions, as are retirement allowances and benefits pursuant to § 51.1-124.4.

E. In the event that an electing retiree dies prior to exhausting the amount in the retiree's supplemental health insurance credit account, the balance in the account shall be paid in the same manner as provided in § 51.1-163.

§ 51.1-205. Service retirement generally.

A. Normal retirement. -

1. Any employee commencing employment or reemployment on or after July 1, 2001, and any employee who makes the election provided in § 51.1-206.1, who is a member in service in any retirement program administered by the Virginia Retirement System at his normal retirement date with five or more years of creditable service, may retire upon written notification to the Board, setting forth the date the retirement is to become effective.

2. Any other employee who is a member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board, setting forth the date the retirement is to become effective. Any member, except one appointed by the Governor or elected by the people, who attains seventy years of age shall be retired forthwith. Any employer, subsequent to the employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that the employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.

B. Early retirement. -

1. Any employee commencing employment or reemployment on or after July 1, 2001, and any employee who makes the election provided in § 51.1-206.1, who is a member in service in any retirement program administered by the Virginia Retirement System other than the program established

INTRODUCED

SB1231

59 *by this chapter may retire pursuant to the early retirement provisions of the retirement program of*  
60 *which he is a member at the time of retirement.*

61 2. Any other employee who is a member in service and who has attained his fiftieth birthday with  
62 five or more years of creditable service may retire upon written notification to the Board setting forth  
63 the date the retirement is to become effective.

64 C. Deferred retirement for members terminating service. -

65 1. Any employee commencing employment or reemployment on or after July 1, 2001, and any  
66 employee who makes the election provided in § 51.1-206.1, who terminates service from any position  
67 with membership in any retirement program administered by the Virginia Retirement System, may retire  
68 under the provisions of subdivision A. 1. or B. 1. if (i) he is otherwise eligible for such benefits, (ii) he  
69 has not withdrawn his accumulated contributions prior to the effective date of his retirement, and (iii)  
70 he has five or more years of creditable service for which his employer has paid the contributions and  
71 such contributions cannot be withdrawn. For purposes of this subsection, any requirements as to the  
72 member being in service shall not apply. No member shall be entitled to the benefits of this subsection if  
73 his employer certifies that his service was terminated because of dishonesty, malfeasance, or  
74 misfeasance in office. The certification may be appealed to the Board.

75 2. Any other member who terminates service after five or more years of creditable service, may  
76 retire under the provisions of ~~subsection~~ subdivision A. 2.; or B. 2. ; ~~or D of this section~~ if he has not  
77 withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or  
78 more years of creditable service, regardless of termination date, for which his employer has paid the  
79 contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any  
80 requirements as to the member being in service shall not apply. No member shall be entitled to the  
81 benefits of this subsection if his employer certifies that his service was terminated because of  
82 dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

83 D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his  
84 fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement  
85 date upon written notification to the Board setting forth the date the retirement is to become effective.

86 E.D. Effective date of retirement. - The effective date of retirement shall be after the last day of  
87 service of the member, but shall not be more than ninety days prior to the filing of the notice of  
88 retirement.

89 F.E. Notification on behalf of member. - If the member is physically or mentally unable to submit  
90 written notification of his intention to retire, the member's appointing authority may submit notification  
91 on his behalf.

92 § 51.1-206. Service retirement allowance.

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

94 1. Normal retirement. -

95 a. For any employee commencing employment or reemployment on or after July 1, 2001, and for any  
96 employee who makes the election provided in § 51.1-206.1, the allowance shall equal (1) two and  
97 one-half percent of his average final compensation multiplied by the amount of creditable service earned  
98 (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement  
99 system established by Chapter 2.1 of Title 51.1, or (c) while earning the benefits permitted by  
100 § 51.1-138; and (2) 1.70 percent of his average final compensation multiplied by all other creditable  
101 service, if any; and

102 b. For any other employee, ~~The~~ the allowance shall equal 1.70 percent of his average final  
103 compensation multiplied by the amount of creditable service.

104 For retirements between October 1, 1994, and December 31, 1998, any state police officer who is a  
105 member or beneficiary of a retirement system administered by the Board shall receive an additional  
106 retirement allowance equal to three percent of the service or disability retirement allowance payable  
107 under this section. Average final compensation attributable to service as Governor, Lieutenant Governor,  
108 Attorney General, or member of the General Assembly shall not be included in computing this  
109 additional retirement allowance.

110 2. Early retirement. - The allowance shall be determined in the same manner as for normal retirement  
111 with creditable service and average final compensation being determined as of the date of actual  
112 retirement. (i) For an individual retiring pursuant to subdivision B. 1. of § 51.1-205, who is not retiring  
113 directly from service as an employee as defined in § 51.1-201, and who has less than thirty years of  
114 service and (ii) for all other individuals retiring pursuant to subdivision B. 1. of § 51.1-205, and for an  
115 individual retiring pursuant to subdivision B. 2. of § 51.1-205 ~~If the member~~ who has less than  
116 twenty-five years of service at retirement, the amount of the retirement allowance shall be reduced on an  
117 actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i)  
118 his normal retirement date or (ii) the first date on or after his fiftieth birthday on which he would have  
119 completed a total of twenty-five years of creditable service.

120 3. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the

greater of (i) the amount the member would receive if he had taken early retirement or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Any person who is an employee on June 30, 2001, and on July 1, 2001, who does not make the election provided in § 51.1-206.1, ~~he~~ shall receive, in addition to the allowance payable under subsection A, a member shall receive annually from the date of his retirement until his sixty-fifth birthday, an annual allowance equal to \$9,264. Beginning July 1, 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an amount recommended by the actuary of the Virginia Retirement System based upon increases in social security benefits in the interim.

This subsection shall not apply to the following: (i) any member who qualifies for retirement under subsection C of § 51.1-205 and is credited with less than twenty years' service rendered in a hazardous position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than twenty years' service rendered in a hazardous position.

C. 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.

D. No person shall be eligible to receive any of the allowances provided in this section if he receives retirement benefits under Chapter 2.1 of Title 51.1 or § 51.1-138.

§ 51.1-206.1. Election of benefits.

All persons who are employees on June 30, 2001, and on July 1, 2001, shall have until October 31, 2001, to elect to be covered by the benefits provided in subdivision A. 1. (a) of § 51.1-206.

**2. That the provisions of this act shall not affect retirement benefits for retirements that are effective prior to July 1, 2001.**