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HOUSE BILL NO. 1507

Offered January 8, 2003

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A BILL to amend and reenact §§ 51.1-155, 51.1-157, 51.1-206, 51.1-217, 51.1-306, and 51.1-308 of the Code of Virginia, relating to retirement benefits for state and local employees.

Patrons—Callahan and Nutter

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-155, 51.1-157, 51.1-206, 51.1-217, 51.1-306, and 51.1-308 of the Code of Virginia are amended and reenacted as follows:

§ 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 (i) 1.70 percent of his ~~the~~ average final compensation multiplied by the amount of his creditable service *for a member with less than 25 years of creditable service at the time of his retirement and* (ii) 2 percent of the average final compensation multiplied by the amount of his creditable service *for a member with 25 or more years of creditable service at the time of his retirement.*

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~~ 90 or more had he remained in service until such date. If the member has less than ~~thirty~~ 30 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~~ his normal retirement date or (ii) ~~the~~ the first date on which he would have completed a total of at least ~~thirty~~ 30 years of creditable service and his then creditable service plus his then attained age would have been equal to ~~ninety~~ 90 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~~ 4 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~~ 55 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.

INTRODUCED

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

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

76 3. (Effective if contingency is met and expires July 1, 2006 - See note) Any person receiving a
77 service retirement allowance under this chapter, who is hired as a local school board instructional or
78 administrative employee required to be licensed by the Board of Education, may elect to continue to
79 receive the retirement allowance during such employment, under the following conditions:

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

82 b. The person has been receiving such retirement allowance for a period of at least thirty days
83 preceding his employment; and

84 c. At the time the person is employed, the position to which he is assigned is among those identified
85 by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23; and

86 d. The person is hired pursuant to a contract that does not exceed one year in duration; and

87 e. The person hired may only be employed for a single year period.

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

91 3. (Effective if contingency is not met and expires July 1, 2006 - See note) Any person receiving a
92 service retirement allowance under this chapter, who is hired as a local school board instructional or
93 administrative employee required to be licensed by the Board of Education, may elect to continue to
94 receive the retirement allowance during such employment, under the following conditions:

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

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

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

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

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

106 § 51.1-157. Disability retirement allowance.

107 A. Allowance payable on retirement.

108 1. Upon retirement for disability, a member who has ~~five or more~~ *at least 5 years but less than 25*
109 *years* of creditable service shall receive an annual retirement allowance during his lifetime and continued
110 disability equal to 1.70 percent of his average final compensation multiplied by the smaller of (i) twice
111 the amount of his creditable service or (ii) the amount of creditable service he would have completed at
112 age ~~sixty~~ 60 if he had remained in service to that age. If a member has already attained age ~~sixty~~ 60, the
113 amount of creditable service at his date of retirement shall be used.

114 2. *Upon retirement for disability, a member who has 25 or more years of creditable service shall*
115 *receive an annual retirement allowance during his lifetime and continued disability equal to 2 percent of*
116 *his average final compensation multiplied by the lesser of (i) twice the amount of his creditable service*
117 *or (ii) the amount of creditable service he would have completed at age 60 if he had remained in*
118 *service to that age. If a member has already attained age 60, the amount of creditable service at his*
119 *date of retirement shall be used.*

120 3. For retirements between October 1, 1994, and December 31, 1998, any employee or local officer

who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to ~~three~~ 3 percent of the disability retirement allowance payable under this section; provided that, for purposes of this additional retirement allowance, the term employee shall include only those employees of political subdivisions that have adopted a resolution providing for such an allowance under subsection B of § 51.1-130. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

B. Workers' compensation guarantee. - If a member retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the annual retirement allowance shall equal sixty-six and two-thirds percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal ~~fifty~~ 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A or under the provisions of this subsection.

C. Reduction of allowance. - Any allowance payable to a member who retires for disability from a cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of any payments under the provisions of the Act in effect on the date of retirement of the member and the excess of the allowance shall be paid to the member. When the time for compensation payments under the Act has elapsed, the member shall receive the full amount of the allowance payable during his lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

D. Special retirement allowance guarantee. - Any member retired from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals ~~fifty~~ 50 percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal thirty-three and one-third percent of his average final compensation.

E. Determination of retirement allowance. - For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

§ 51.1-206. Service retirement allowance.

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

1. Normal retirement. - The allowance shall equal (i) 1.70 percent of ~~his~~ *the* average final compensation multiplied by the amount of creditable service *for a member with less than 25 years of creditable service at the time of his retirement and* (ii) 2 percent of the average final compensation multiplied by the amount of his creditable service *for a member with 25 or more years of creditable service at the time of his retirement.*

For retirements between October 1, 1994, and December 31, 1998, any state police officer who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to ~~three~~ 3 percent of the service or disability retirement allowance payable under this section. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

2. Early retirement. - 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 ~~twenty-five~~ 25 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 or after his fiftieth birthday on which he would have completed a total of ~~twenty-five~~ 25 years of creditable service.

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. In addition to the allowance payable under subsection A, a member shall receive annually from the date of his retirement until his retirement age, as such term is defined under the Social Security Act

182 (42 U.S.C. § 416 et seq., as now or hereafter amended), an allowance equal to \$9,264. Beginning July 1,
 183 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an
 184 amount recommended by the actuary of the Virginia Retirement System based upon increases in social
 185 security benefits in the interim.

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

190 C. If a beneficiary of a service retirement allowance under this chapter is at any time in service as an
 191 employee in a position covered for retirement purposes under the provisions of this or any chapter other
 192 than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.

193 § 51.1-217. Service retirement allowance.

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

195 1. Normal retirement

196 a. Notwithstanding the provisions of §§ 51.1-155, 51.1-155.1 and 51.1-155.2, for any employee
 197 commencing employment or reemployment on or after July 1, 2001, and for any employee who makes
 198 the election provided in § 51.1-221, the allowance shall equal ~~(i) two percent of his average final~~
 199 ~~compensation multiplied by~~ the amount of creditable service earned *pursuant to subdivisions (a), (b),*
 200 *and (c), multiplied by 2.75 percent of the average final compensation for an employee retiring with 25*
 201 *or more years of creditable service, and multiplied by 2.5 percent for any employee retiring with less*
 202 *than 25 years of creditable service. The foregoing percentages of average final compensation shall be*
 203 *multiplied by creditable service earned: (a) as a member in the retirement system established by this*
 204 *chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title*
 205 *51.1, or (c) while earning the benefits permitted by § 51.1-138; and (ii) 1.70. All other creditable*
 206 *service, if any, shall be multiplied by 2 percent of his average final compensation* ~~multiplied by all other~~
 207 ~~creditable service, if any; and.~~

208 b. For any other employee, the allowance shall equal (i) 1.70 percent of ~~his~~ *the* average final
 209 compensation multiplied by the amount of creditable service *for a member with less than 25 years of*
 210 *creditable service at the time of his retirement and (ii) 2 percent of the average final compensation*
 211 *multiplied by the amount of his creditable service for a member with 25 or more years of creditable*
 212 *service at the time of his retirement.*

213 2. Early retirement. - The allowance shall be determined in the same manner as for normal retirement
 214 with creditable service and average final compensation being determined as of the date of actual
 215 retirement.

216 a. For an individual retiring pursuant to subdivision B 1 of § 51.1-216, who is not retiring directly
 217 from service as an employee as defined in § 51.1-212, and who has less than thirty years of service shall
 218 retire under the provisions of the retirement system for which he is a member as of his retirement date;
 219 and

220 b. For all other individuals retiring pursuant to subdivision B 1 of § 51.1-216, and for an individual
 221 retiring pursuant to subdivision B 2 of § 51.1-216 who has less than ~~twenty-five~~ 25 years of service at
 222 retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for
 223 the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or
 224 (ii) the first date on or after his fiftieth birthday on which he would have completed a total of
 225 ~~twenty-five~~ 25 years of creditable service.

226 B. Any person who is an employee on June 30, 2001, and on July 1, 2001, who does not make the
 227 election provided in § 51.1-221, shall receive, in addition to the allowance payable under subsection A,
 228 from the date of his retirement until his sixty-fifth birthday, an annual allowance equal to \$9,264.
 229 Beginning July 1, 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the
 230 Board to an amount recommended by the actuary of the Virginia Retirement System based upon
 231 increases in Social Security benefits in the interim. This subsection shall not apply to the following: (i)
 232 any member who qualifies for retirement under subsection C of § 51.1-216 and is credited with less than
 233 twenty years' service rendered in a hazardous position or (ii) any member employed initially on or after
 234 July 1, 1974, who is credited with less than twenty years' service rendered in a hazardous position.

235 C. If a beneficiary of a service retirement allowance under this chapter is at any time in service as an
 236 employee in a position covered for retirement purposes under the provisions of this or any chapter other
 237 than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.

238 D. No person shall be eligible to receive any of the allowances provided in this section if he receives
 239 retirement benefits under Chapter 2 (§ 51.1-200 et seq.) of Title 51.1 or under § 51.1-138. No person
 240 shall receive any allowance pursuant to subdivision A 1 (i) if he has received an allowance pursuant to
 241 subsection B of § 51.1-206 or subsection B of § 51.1-217, unless, after receiving the allowance pursuant
 242 to subsection B of § 51.1-206 or subsection B of § 51.1-217, he becomes employed or reemployed as an
 243 employee defined in § 51.1-212, and thereafter earns ~~five~~ 5 or more years of creditable service (a) as a

member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by § 51.1-138.

§ 51.1-306. 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 (i) 1.70 percent of ~~his~~ *the* average final compensation multiplied by the amount of creditable service *for a member with less than 25 years of creditable service at the time of his retirement and* (ii) 2 percent of the average final compensation *multiplied by the amount of his creditable service for a member with 25 or more years of creditable service at the time of his retirement.* The allowance shall not exceed ~~seventy-eight~~ 78 percent of the average final compensation of the member.

For retirements between October 1, 1994, and December 31, 1998, any judge who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to ~~three~~ 3 percent of the service retirement allowance payable under this section. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

2. Early retirement. - 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 not attained his sixtieth birthday or has less than thirty years of service, 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 or after his sixtieth birthday on which he would have completed a total of ~~thirty~~ 30 years of creditable service.

B. Normal and early retirement guarantees. - Any member who was a member of one of the previous systems immediately prior to July 1, 1970, and who would have been eligible for retirement benefits thereunder shall be guaranteed a minimum retirement allowance no less than that for which he would have qualified had he continued to participate therein.

C. Determination of retirement allowance. - For the purposes of subsection B of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

D. Beneficiary serving in position covered by this title. - If a beneficiary of a service retirement allowance under this chapter or under any of the previous systems 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.

§ 51.1-308. Disability retirement allowance.

A. Allowance payable on retirement.

1. Upon retirement for disability, a member who has ~~five or more~~ *at least 5 but less than 25* years of creditable service shall receive an annual retirement allowance, not to exceed ~~seventy-eight~~ 78 percent of his average final compensation, payable during his lifetime and continued disability equal to 1.70 percent of average final compensation when multiplied by the smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would have completed at age ~~sixty~~ 60 if he had remained in service to that age. If a member has already attained age ~~sixty~~ 60, the amount of creditable service at his date of retirement shall be used.

2. *Upon retirement for disability, a member who has 25 or more years of creditable service shall receive an annual retirement allowance, not to exceed 78 percent of his average final compensation, payable during his lifetime and continued disability equal to 2 percent of average final compensation when multiplied by the smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. If a member has already attained age 60, the amount of creditable service at his date of retirement shall be used.*

B. Workers' compensation guarantee. - If a member retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the annual retirement allowance shall, subject to the provisions of subsection D, equal sixty-six and two-thirds percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal fifty percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A of this section or

305 under the provisions of this subsection.

306 C. General disability retirement guarantee. - The disability retirement allowance payable to a member
307 who immediately prior to July 1, 1970, was a member of one of the previous systems shall be at least
308 an amount equal to the disability retirement allowance to which he would have been entitled under the
309 provisions of the previous system.

310 D. Determination of retirement allowance. - For the purposes of this section, the retirement allowance
311 shall be determined on the assumption that the retirement allowance is payable to the member alone and
312 that no optional retirement allowance is elected.

313 E. Reduction of allowance. - Any allowance payable to a member who retires for disability from a
314 cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of
315 any payments under the provisions of the Act in effect on the date of retirement of the member and the
316 excess of the allowance shall be paid to such member. When the time for compensation payments under
317 the Act has elapsed, the member shall receive the full amount of the allowance payable during his
318 lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation
319 Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his
320 allowance shall be computed as if he were receiving the compensation to which he would otherwise be
321 entitled.

322 F. Special retirement allowance guarantee. - Any member retired from a cause which is not
323 compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement
324 allowance during his lifetime and continued disability which equals fifty percent of the member's
325 average final compensation if the member does not qualify for primary social security benefits under the
326 provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for
327 primary social security benefits under the provisions of the Social Security Act in effect on the date of
328 retirement, the allowance payable from the retirement system shall equal thirty-three and one-third
329 percent of his average final compensation.

330 **2. That the provisions of this act shall apply to retirement benefits payable to applicable employees**
331 **who retire on or after July 1, 2003.**