

021541660

HOUSE BILL NO. 321

Offered January 9, 2002

Prefiled January 7, 2002

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, McQuigg 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 ~~1.70~~ two 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 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

INTRODUCED

HB321

59 covered employment shall not be entitled to select a different retirement option for a subsequent
60 retirement.

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

72 3. (Expires July 1, 2006) Any person receiving a service retirement allowance under this chapter,
73 who is hired as a local school board instructional or administrative employee required to be licensed by
74 the Board of Education, may elect to continue to receive the retirement allowance during such
75 employment, under the following conditions:

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

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

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

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

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

87 § 51.1-157. Disability retirement allowance.

88 A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or
89 more years of creditable service shall receive an annual retirement allowance during his lifetime and
90 continued disability equal to ~~1.70~~ two percent of his average final compensation multiplied by the
91 smaller of (i) twice the amount of his creditable service or (ii) the amount of creditable service he
92 would have completed at age sixty if he had remained in service to that age. If a member has already
93 attained age sixty, the amount of creditable service at his date of retirement shall be used.

94 For retirements between October 1, 1994, and December 31, 1998, any employee or local officer
95 who is a member or beneficiary of a retirement system administered by the Board shall receive an
96 additional retirement allowance equal to three percent of the disability retirement allowance payable
97 under this section; provided that, for purposes of this additional retirement allowance, the term employee
98 shall include only those employees of political subdivisions that have adopted a resolution providing for
99 such an allowance under subsection B of § 51.1-130. Average final compensation attributable to service
100 as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be
101 included in computing this additional retirement allowance.

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

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

120 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 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 ~~1.70~~ two percent of his average final compensation multiplied by the amount of creditable service.

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 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 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 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 (42 U.S.C. § 416 et seq., as now or hereafter amended), an 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.

§ 51.1-217. Service retirement allowance.

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

1. Normal retirement.

a. Notwithstanding the provisions of §§ 51.1-155, 51.1-155.1 and 51.1-155.2, for any employee commencing employment or reemployment on or after July 1, 2001, and for any employee who makes the election provided in § 51.1-221, the allowance shall equal (i) ~~two~~ 2.5 percent of his average final compensation multiplied by the amount of creditable service earned (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; and (ii) ~~1.70~~ two percent of his average final compensation multiplied by all other creditable service, if any; and

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

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.

a. For an individual retiring pursuant to subdivision B 1 of § 51.1-216, who is not retiring directly from service as an employee as defined in § 51.1-212, and who has less than thirty years of service; and

b. For all other individuals retiring pursuant to subdivision B 1 of § 51.1-216, and for an individual

182 retiring pursuant to subdivision B 2 of § 51.1-216 who has less than twenty-five years of service at
183 retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for
184 the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or
185 (ii) the first date on or after his fiftieth birthday on which he would have completed a total of
186 twenty-five years of creditable service.

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

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

199 D. No person shall be eligible to receive any of the allowances provided in this section if he receives
200 retirement benefits under Chapter 2 (§ 51.1-200 et seq.) of Title 51.1 or under § 51.1-138.

201 § 51.1-306. Service retirement allowance.

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

204 1. Normal retirement. - The allowance shall equal ~~1-70~~ *two* percent of his average final compensation
205 multiplied by the amount of creditable service. The allowance shall not exceed seventy-eight percent of
206 the average final compensation of the member.

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

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. If the member has not attained his sixtieth birthday or has less than thirty years of service,
216 the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period
217 by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first
218 date on or after his sixtieth birthday on which he would have completed a total of thirty years of
219 creditable service.

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

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

227 D. Beneficiary serving in position covered by this title. - If a beneficiary of a service retirement
228 allowance under this chapter or under any of the previous systems is at any time in service as an
229 employee in a position covered for retirement purposes under the provisions of this or any chapter other
230 than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.

231 § 51.1-308. Disability retirement allowance.

232 A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or
233 more years of creditable service shall receive an annual retirement allowance, not to exceed
234 seventy-eight percent of his average final compensation, payable during his lifetime and continued
235 disability equal to ~~1-70~~ *two* percent of average final compensation when multiplied by the smaller of (i)
236 twice the amount of creditable service or (ii) the amount of creditable service he would have completed
237 at age sixty if he had remained in service to that age. If a member has already attained age sixty, the
238 amount of creditable service at his date of retirement shall be used.

239 B. Workers' compensation guarantee. - If a member retires for disability from a cause which is
240 compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the
241 annual retirement allowance shall, subject to the provisions of subsection D, equal sixty-six and
242 two-thirds percent of the member's average final compensation if the member does not qualify for
243 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 under the provisions of this subsection.

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

D. 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.

E. 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 such 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.

F. 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 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.

2. That the provisions of this act shall apply to retirement benefits payable on or after July 1, 2002, regardless of the date of retirement.