

# VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

## CHAPTER 687

*An Act to amend and reenact § 51.1-206, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to classifying certain service as service rendered in a hazardous position.*

[S 311]

Approved April 12, 2004

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

**1. That § 51.1-206, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

§ 51.1-206. (Effective until July 1, 2005) 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 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 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 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 (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 20 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 20 years' service rendered in a hazardous position. *However, any service rendered as an employee, as such term is defined in § 51.1-212, shall be deemed as service in a hazardous position for purposes of the additional retirement allowance herein.*

C. Except as provided in subsection D or E, 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. If a member in service at age 60 or older with five or more years of creditable service elects, pursuant to subsection A of § 51.1-205, to receive a service retirement allowance pursuant to this chapter while employed as a state police officer or as an employee, as defined in § 51.1-124.3, of the Department of State Police, then his service performed and compensation received while receiving such retirement allowance shall not increase, decrease, or affect in any way his retirement benefits before, during, or after the payment of such retirement allowance.

E. (For effective date - See Editor's note) Any member between the ages of 55 and 59, inclusive, who is rehired by the Department of State Police as a state police officer or as an employee, as defined in § 51.1-124.3, of the Department of State Police, and who has been receiving a service retirement allowance under this chapter for a period of least 30 days prior to such reemployment may, upon such reemployment, elect to continue to receive such service retirement allowance for a period of up to one year. Such period may be extended for up to one additional year with the prior approval of the Secretary of Public Safety. If the person elects to continue to receive such retirement allowance during

such period of reemployment, then his service performed and compensation received during such period of reemployment shall not increase, decrease, or affect in any way his retirement benefits before, during, or after such period of reemployment.

§ 51.1-206. (Effective July 1, 2005) Service retirement allowance.

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1. Normal retirement. - The allowance shall equal 1.70 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~~ 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 (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~~ 20 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~~ 20 years' service rendered in a hazardous position. *However, any service rendered as an employee, as such term is defined in § 51.1-212, shall be deemed as service in a hazardous position for purposes of the additional retirement allowance herein.*

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.

**2. That the provisions of this act shall apply to persons who first retire pursuant to Title 51.1 of the Code of Virginia on or after October 1, 1999, with a retirement benefit pursuant to § 51.1-138 or Chapter 2 (§ 51.1-200 et seq.) of Title 51.1 of the Code of Virginia. The Virginia Retirement System shall make such necessary adjustments to the retirement benefits of affected persons who have retired prior to the effective date of this act.**