

047301548

**HOUSE BILL NO. 1121**

Offered January 14, 2004

Prefiled January 14, 2004

*A BILL to amend and reenact §§ 51.1-216 and 51.1-217 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 2.1 of Title 51.1 a section numbered 51.1-222, relating to the Virginia Law Officers' Retirement System.*

Patron—Weatherholtz

Referred to Committee on Appropriations

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

**1. That §§ 51.1-216 and 51.1-217 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 2.1 of Title 51.1 a section numbered 51.1-222 as follows:**

§ 51.1-216. Service retirement generally.

A. Normal retirement.

1. Any employee commencing employment or reemployment on or after July 1, 2001, *except for any such employee who is eligible to make the election provided in § 51.1-222, but does not make such election*, and any employee who makes the election provided in § 51.1-221, 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 (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (iii) while earning the benefits permitted by § 51.1-138, 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 (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board, setting forth the date the retirement is to become effective.

B. Early retirement.

1. Any employee commencing employment or reemployment on or after July 1, 2001, *except for any such employee who is eligible to make the election provided in § 51.1-222, but does not make such election*, and any employee who makes the election provided in § 51.1-221, who is a member in service in any retirement program administered by the Virginia Retirement System other than the program established by this chapter shall retire pursuant to the early retirement provisions of the retirement program of which he is a member at the time of retirement.

2. Any other employee who is a member in service and who has attained his fiftieth birthday with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board setting forth the date the retirement is to become effective.

C. Deferred retirement for members terminating service.

1. Any employee commencing employment or reemployment on or after July 1, 2001, *except for any such employee who is eligible to make the election provided in § 51.1-222, but does not make such election*, and any employee who makes the election provided in § 51.1-221, who terminates service from any position with membership in any retirement program administered by the Virginia Retirement System, may retire under the provisions of subdivision A 1 or B 1 if (i) he is otherwise eligible for such benefits, (ii) he has not withdrawn his accumulated contributions prior to the effective date of his retirement, and (iii) he has five 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 for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

2. Any other member who terminates service after five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system

INTRODUCED

HB1121

59 established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (iii) while earning the benefits permitted  
60 by § 51.1-138 may retire under the provisions of subdivision A 2 or B 2 if he has not withdrawn his  
61 accumulated contributions prior to the effective date of his retirement or if he has five or more years of  
62 creditable service (a) as a member in the retirement system established by this chapter, (b) as a member  
63 in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning  
64 the benefits permitted by § 51.1-138 for which his employer has paid the contributions and such  
65 contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the  
66 member being in service shall not apply. No member shall be entitled to the benefits of this subsection  
67 if his employer certifies that his service was terminated because of dishonesty, malfeasance, or  
68 misfeasance in office. The certification may be appealed to the Board.

69 D. Effective date of retirement. - The effective date of retirement shall be after the last day of  
70 service, but shall not be more than ninety days prior to the filing of the notice of retirement.

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

74 § 51.1-217. Service retirement allowance.

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

76 1. Normal retirement.

77 a. Notwithstanding the provisions of §§ 51.1-155, 51.1-155.1 and 51.1-155.2, for any employee  
78 commencing employment or reemployment on or after July 1, 2001, *except for any such employee who*  
79 *is eligible to make the election provided in § 51.1-222, but does not make such election*, and for any  
80 employee who makes the election provided in § 51.1-221, the allowance shall equal (i) two percent of  
81 his average final compensation multiplied by the amount of creditable service earned (a) as a member in  
82 the retirement system established by this chapter, (b) as a member in the retirement system established  
83 by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by  
84 § 51.1-138; and (ii) 1.70 percent of his average final compensation multiplied by all other creditable  
85 service, if any; and

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

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

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

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

101 B. Any person who is an employee on June 30, 2001, and on July 1, 2001, who does not make the  
102 election provided in § 51.1-221, *and any employee commencing employment or reemployment on or*  
103 *after July 1, 2001, who is eligible to make the election provided in § 51.1-222, but does not make such*  
104 *election*, shall receive, in addition to the allowance payable under subsection A, from the date of his  
105 retirement until his sixty-fifth birthday, an annual allowance equal to \$9,264. Beginning July 1, 2001,  
106 and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an amount  
107 recommended by the actuary of the Virginia Retirement System based upon increases in Social Security  
108 benefits in the interim. This subsection shall not apply to the following: (i) any member who qualifies  
109 for retirement under subsection C of § 51.1-216 and is credited with less than twenty years' service  
110 rendered in a hazardous position or (ii) any member employed initially on or after July 1, 1974, who is  
111 credited with less than twenty years' service rendered in a hazardous position.

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

115 D. No person shall be eligible to receive any of the allowances provided in this section if he receives  
116 retirement benefits under Chapter 2 (§ 51.1-200 et seq.) of Title 51.1 or under § 51.1-138. No person  
117 shall receive any allowance pursuant to subdivision A 1 (i) if he has received an allowance pursuant to  
118 subsection B of § 51.1-206 or subsection B of § 51.1-217, unless, after receiving the allowance pursuant  
119 to subsection B of § 51.1-206 or subsection B of § 51.1-217, he becomes employed or reemployed as an  
120 employee defined in § 51.1-212, and thereafter earns five 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.

*§ 51.1-222. Additional election of benefits.*

*Any employee commencing employment or reemployment on or after July 1, 2001, who within 90 days of such employment was a member in service of (i) the retirement plan set forth in Chapter 2 (§ 51.1-200 et seq.) of this title or the retirement plan set forth in § 51.1-138, or (ii) the retirement plan set forth in this chapter and had made the election provided in § 51.1-221, shall have 30 days from the date of such employment or until August 1, 2004, whichever is later, to make an irrevocable election to be covered by the benefits provided in subdivision A 1 of § 51.1-217.*