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HOUSE BILL NO. 2183

Offered January 12, 2005

Prefiled January 11, 2005

A BILL to amend and reenact §§ 51.1-124.3, 51.1-132, and 51.1-155 of the Code of Virginia, relating to the Virginia Retirement System; participation by members of local governing bodies.

 Patron—Tata

 Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3, 51.1-132, and 51.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-124.3. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1990, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his 36 highest consecutive months of creditable service or during the entire period of his creditable service if less than 36 months. If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

"Beneficiary" means any person entitled to receive benefits under this chapter.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Creditable compensation" means the full compensation payable annually to an employee working full time in his covered position. Remuneration received by members of the General Assembly not otherwise retired under the provisions of this chapter pursuant to §§ 30-19.11 and 30-19.12 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly. *Remuneration received pursuant to Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of Title 15.2 or any other applicable law by members of a city council of a locality participating in the Retirement System and not otherwise retired under the provisions of this chapter shall be deemed creditable compensation. In addition, for any member of such city council, creditable compensation shall include the full amount of salaries payable to the member for working in covered positions.*

"Creditable service" means prior service as set forth in § 51.1-142.2 plus membership service for which credit is allowable.

"Employee" means any teacher, state employee, officer, or employee of a locality participating in the Retirement System. *It shall also include any member of the city council of a city participating in the Retirement System.*

"Employer" means the Commonwealth in the case of a state employee, the local public school board in the case of a teacher, or the political subdivision participating in the Retirement System.

"Joint Rules Committee" means those members of the House of Delegates and the Senate designated by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet with each other and to act jointly on behalf of the Committee on Rules for each house.

"Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth,

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59 clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

60 "Medical Board" means the board of physicians as provided by this chapter.

61 "Member" means any person included in the membership of the Retirement System.

62 "Membership service" means service as an employee rendered while a contributing member of the
63 Retirement System except as provided in this chapter.

64 "Normal retirement date" means a member's sixty-fifth birthday.

65 "Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or
66 unit of the Commonwealth, or any commission, public authority, or body corporate created by or under
67 an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the
68 commission, public authority, or body corporate.

69 "Primary social security benefit" means, with respect to any member, the primary insurance amount
70 to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions
71 of the federal Social Security Act as in effect at his date of retirement, under the provisions of this
72 chapter except as otherwise specifically provided.

73 "Prior service" means service rendered prior to becoming a member of the Retirement System.

74 "Purchase of service contract" means a contract entered into by the member and the Retirement
75 System for the purchase of service credit by the member as provided in § 51.1-142.2.

76 "Retirement allowance" means the retirement payments to which a member is entitled.

77 "Retirement System" means the Virginia Retirement System.

78 "Service" means service as an employee.

79 "State employee" means any person who is regularly employed full time on a salaried basis, whose
80 tenure is not restricted as to temporary or provisional appointment, in the service of, and whose
81 compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or
82 any department, institution, or agency thereof. "State employee" shall include the Governor, Lieutenant
83 Governor, Attorney General, and members of the General Assembly but shall not include (i) any local
84 officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) individuals employed by
85 the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv) any member of the State
86 Police Officers' Retirement System, (v) any member of the Judicial Retirement System, or (vi) any
87 member of the Virginia Law Officers' Retirement System.

88 "Teacher" means any person who is regularly employed full time on a salaried basis as a professional
89 or clerical employee of a county, city, or other local public school board.

90 § 51.1-132. Eligible employees.

91 Officers and employees of the political subdivision who are regularly employed full time on a
92 salaried basis and whose tenure is not restricted as to temporary or provisional appointment may become
93 members of the retirement system. *In the case of a city participating in the retirement system, members*
94 *of the city council shall also be eligible employees.* Clerks of the circuit court and deputies shall be
95 included in the coverage group. Officers and employees of an organization other than a public school
96 board that functions solely within the boundaries of a county, city, or town shall be deemed to be
97 officers and employees of the county, city, or town, and not of the organization, unless the cost of the
98 organization's operation is borne by (i) the users of services, (ii) more than one county, city, or town, or
99 (iii) any entity other than a county, city, or town.

100 A member of a local system who, through election to a position as a constitutional officer, is no
101 longer eligible for membership in the local system, and who, prior to such election, has accumulated
102 within that system more than half the total service credits necessary to become eligible for full normal
103 retirement benefits, may choose, with the concurrence of the local governing body, (i) not to participate
104 in the retirement system established pursuant to this chapter and (ii) to become a member of the local
105 system. In such case, the member shall be deemed, for retirement purposes only, to have ceased
106 employment, and shall be permitted to withdraw his contribution as provided in § 51.1-161.

107 § 51.1-155. Service retirement allowance.

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

110 1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation
111 multiplied by the amount of his creditable service.

112 2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall
113 be determined in the same manner as for normal retirement with creditable service and average final
114 compensation being determined as of the date of actual retirement. If the member has less than 30 years
115 of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial
116 equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal
117 retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable
118 service. The provisions of this subdivision shall apply to teachers and state employees. These provisions
119 shall also apply to employees of any political subdivision that participates in the retirement system if the
120 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 30 or more years but the sum of his age at retirement plus his creditable service at retirement is less than 90, 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 90 or more had he remained in service until such date. If the member has less than 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 normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 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 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 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.

1. Except as provided in subdivisions 2, and 3, and 4, 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 covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

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

3. (Effective if contingency is met and expires July 1, 2005 - See note) Any person receiving a service retirement allowance under this chapter, who is hired as a local school board instructional or administrative employee required to be licensed by the Board of Education, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

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

b. The person has been receiving such retirement allowance for a period of at least 30 days preceding his employment; and

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

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

e. [Repealed.]

Nothing in this subdivision shall be construed to restrict the total number of years that any one person may participate under the provisions of this subdivision, provided that all applicable conditions are met.

If the person elects to continue to receive the retirement allowance during the period of such

182 employment, then his service performed and compensation received during such period of time will not
183 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

184 3. (Effective if contingency is not met and expires July 1, 2005 - See note) Any person receiving a
185 service retirement allowance under this chapter, who is hired as a local school board instructional or
186 administrative employee required to be licensed by the Board of Education, may elect to continue to
187 receive the retirement allowance during such employment, under the following conditions:

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

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

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

194 (d) At the time the person is employed, the position to which he is assigned is among those
195 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the
196 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant
197 to subdivision 9 of § 22.1-79.

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

201 4. *Active members of a city council who are eligible to receive a retirement allowance under this*
202 *title, excluding their service as a member of the city council, shall be eligible to receive a retirement*
203 *allowance based on their creditable service and average final compensation for service other than as a*
204 *member of the city council. Such members of the city council shall continue to be reported as any other*
205 *members of the retirement system. Upon ceasing to serve on the city council, members of the city*
206 *council receiving a retirement allowance based on their creditable service and average final*
207 *compensation for service other than as a member of the city council shall have their retirement*
208 *allowance recomputed prospectively to include their service as a member of the city council. Active*
209 *members of the city council shall be prohibited from receiving a service retirement allowance under this*
210 *title based solely on their service as a member of the city council.*

211 2. **That the provisions of this act shall apply to members of a city council serving on or after July**
212 **1, 2005, and that the benefits available under this act shall apply only to service performed on or**
213 **after July 1, 2005.**