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HOUSE BILL NO. 103

Offered January 11, 2006

Prefiled December 21, 2005

A BILL to amend and reenact § 51.1-142.2 of the Code of Virginia, relating to the Virginia Retirement System; purchase of prior service.

Patron—Lewis

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-142.2 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-142.2. Prior service or membership credit for certain members; service credit for accumulated sick leave.

Certain members may purchase credit for service as provided in this section.

A. 1. In order to receive credit for the service made available in subsection B, a member in service shall be required to make a payment. For each year, or portion thereof, to be credited at the time of purchase, a member shall pay an amount equal to five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing the service made available in subsection B through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation. However, if a person becoming a member on or after July 1, 2001, does not purchase, or enter into a purchase of service contract for, such service within three years from his first date of hire or within three years of the final day of any leave of absence under subdivision B 3, as applicable, then, for each year to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost.

2. If a member in service on June 30, 2001, and July 1, 2001, did not, prior to July 1, 2001, purchase, or enter into a contract with the Retirement System to purchase, such service under former § 51.1-142, then, for each year, or portion thereof, to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost, unless such member purchases, or enters into a purchase of service contract for, such service within three years from the date he became eligible to purchase the service or by July 1, 2004, whichever is later. If the service is purchased or a purchase of service contract is entered into within such time period, the cost to the member for each year to be credited at the time of purchase shall be five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing such service through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation. If such member first becomes eligible to purchase any of the service under subsection B after July 1, 2001, the cost of such service or portion thereof shall be as provided in subsection A, except that the three-year period in which to purchase, or enter into a purchase of service contract for, such service shall commence on the first day the member becomes eligible to purchase the service.

3. When a member requests credit for a portion of the period, the most recent portion shall be credited. Payment may be made in a lump sum at the time of purchase or by an additional payroll deduction. Only one additional deduction shall be permitted at any time. Should the additional deduction be terminated prior to purchasing the entire period that might otherwise be credited, the member shall be credited with the number of additional months of service for which full payment is made. If the additional deduction is continued beyond the point at which the entire period has been purchased, the member shall be credited with no more than the entire period that might otherwise have been credited and the excess amount deducted shall be refunded to the member.

Any employer may elect to pay an equivalent amount in lieu of all member contributions required of its employees for the purpose of service credit pursuant to this section. These contributions shall not be considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.) of this title, nor shall they be considered to be salary for purposes of this chapter.

B. 1. Any member in service may purchase prior service credit for (i) ~~active~~ ~~duty~~ military service in the armed forces of the United States, *whether active duty or not*, provided that the discharge from a period of ~~active~~ duty ~~status~~ with the armed forces was not dishonorable, (ii) creditable service of another state or of a political subdivision or public school system of this or another state, as certified by such state, political subdivision or public school system, (iii) creditable service of a political subdivision of this state not credited to the member under an agreement as provided for in § 51.1-143.1, as certified by

such political subdivision, (iv) civilian service of the United States, or (v) any period of time when the member was employed by a participating employer and not otherwise eligible to participate in the retirement system because the member was not an employee as defined in § 51.1-124.3.

For purposes of this subsection "~~active duty~~ military service" means ~~full-time service of at least 180 consecutive days~~ *service* in the United States Army, Navy, Air Force, Marines, Coast Guard, *National Guard,* or reserve components thereof.

2. Any member (i) granted a leave of absence for educational purposes may purchase service credit for such leave of absence; or (ii) granted any unpaid leave of absence due to the birth or adoption of a child may purchase up to one year of service credit per occurrence of leave.

C. Any member in service may purchase service credit for creditable service lost from ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing such service through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation. If the member either purchases or enters into a contract to purchase such service within three years of the date he became eligible to purchase the service or by July 1, 2004, whichever is later, then the service may be purchased in a lump sum at the time of purchase or through an additional payroll deduction. Any purchase of such service made at a time later than such period shall be made in a lump sum at the time of purchase.

D. Any member in service may purchase service credit for accumulated sick leave on his effective date of retirement based upon such sums as the employer may provide as payment for any unused sick leave balances. The cost of service credit purchased under this subsection shall be the actuarial equivalent cost of such service.

E. In any case where member and employer contributions, as required under this chapter, were not made because of an error in the payroll, personnel, or other classification system of an employer participating in the retirement system, service that has not been credited because of such error may be purchased on the following basis:

1. The most recent three years of service shall be purchased, using applicable member and employer contribution rates and creditable compensation in effect for such period, in a manner and cost prescribed by the Board; and

2. All other years of service the employer shall purchase at an actuarial equivalent cost.

F. The service credit to be credited to a member under this section shall be calculated at the ratio of one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased, except for part-time service purchased under clause (v) of subdivision B 1 which shall be calculated at the ratio of one month of service credit for each 173 hours of service as certified by the employer and as purchased by the member. Up to a maximum of four years of service credit may be purchased for each of clauses (i) through (v) of subdivision B 1 and clause (i) and (ii) of subdivision B 2. In addition, a member in service may purchase service credit for every year or portion thereof for service lost from cessation of membership as described in subsection C.

Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service credit made available under this section may not be purchased if, before being purchased or at the time of such purchase pursuant to this section, the service to be purchased is service that is included in the calculation of any retirement allowance received or to be received by the member from this or another retirement system.

G. Any member may receive credit at no cost for service rendered in the armed forces of the United States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from a period of active duty with the armed forces was not dishonorable, (iii) the member has not withdrawn his accumulated contributions, and (iv) the member reenters service in a covered position within one year after discharge from the armed forces. In order to receive such service, the member must complete such forms and other requirements as are required by the Board and the retirement system.