

064290308

**HOUSE BILL NO. 431**

Offered January 11, 2006

Prefiled January 6, 2006

*A BILL to amend and reenact §§ 51.1-155, 51.1-206, and 51.1-217 of the Code of Virginia, relating to Virginia Retirement System; benefits.*

\_\_\_\_\_  
Patron—Griffith

\_\_\_\_\_  
Referred to Committee on Appropriations

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

**1. That §§ 51.1-155, 51.1-206, and 51.1-217 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 percent of his average final compensation multiplied by~~ the amount of his creditable service ~~multiplied by a percentage of his average final compensation as set forth in the following chart.~~

<i>Years of Creditable Service</i>	<i>Percentage of Average Final Compensation</i>
<i>Less than 25</i>	<i>1.70%</i>
<i>25 or more but less than 30</i>	<i>1.80%</i>
<i>30 or more but less than 35</i>	<i>1.90%</i>
<i>35 or more but less than 40</i>	<i>2.0%</i>
<i>40 or more</i>	<i>3.0%</i>

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 30 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 30 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.

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. 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, a member shall receive an additional allowance that 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

58 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated  
 59 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's  
 60 accumulated contributions, including accrued interest.

61 B. Beneficiary serving in position covered by this title.

62 1. Except as provided in subdivisions 2 and 3, if a beneficiary of a service retirement allowance  
 63 under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3  
 64 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement  
 65 purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1  
 66 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed.  
 67 Any member who retires and later returns to covered employment shall not be entitled to select a  
 68 different retirement option for a subsequent retirement.

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

80 3. (Expires July 1, 2010) Any person receiving a service retirement allowance under this chapter,  
 81 who is hired as a local school board instructional or administrative employee required to be licensed by  
 82 the Board of Education, may elect to continue to receive the retirement allowance during such  
 83 employment, under the following conditions:

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

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

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

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

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

97 § 51.1-206. Service retirement allowance.

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

99 1. Normal retirement. The allowance shall equal ~~1.70 percent of his average final compensation~~  
 100 ~~multiplied by the amount of creditable service multiplied by a percentage of his average final~~  
 101 ~~compensation as set forth in the following chart.~~

102 Years of Creditable Service	Percentage of Average Final Compensation
103 Less than 25	1.70%
104 25 or more but less than 30	1.80%
105 30 or more but less than 35	1.90%
106 35 or more but less than 40	2.0%
107 40 or more	3.0%

108 For retirements between October 1, 1994, and December 31, 1998, any state police officer who is a  
 109 member or beneficiary of a retirement system administered by the Board shall receive an additional  
 110 retirement allowance equal to three percent of the service or disability retirement allowance payable  
 111 under this section. Average final compensation attributable to service as Governor, Lieutenant Governor,  
 112 Attorney General, or member of the General Assembly shall not be included in computing this  
 113 additional retirement allowance.

114 2. Early retirement. The allowance shall be determined in the same manner as for normal retirement  
 115 with creditable service and average final compensation being determined as of the date of actual  
 116 retirement. If the member has less than 25 years of service at retirement, the amount of the retirement  
 117 allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement  
 118 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.

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. 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 percent~~ *a percentage* of his average final compensation, *as set forth in the chart that follows*, 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;

<i>Total Years of Creditable Service</i>	<i>Percentage of Average Final Compensation</i>
<i>Less than 25</i>	<i>2.0%</i>
<i>25 or more but less than 30</i>	<i>2.3%</i>
<i>30 or more but less than 35</i>	<i>2.6%</i>
<i>35 or more but less than 40</i>	<i>2.9%</i>
<i>40 or more</i>	<i>3.3%</i>

and (ii) ~~1.70 percent~~ *a percentage* of his average final compensation multiplied by all other creditable service, if any, *as set forth in the chart that follows*:

<i>Total Years of Creditable Service</i>	<i>Percentage of Average Final Compensation</i>
<i>Less than 25</i>	<i>1.70%</i>
<i>25 or more but less than 30</i>	<i>1.80%</i>
<i>30 or more but less than 35</i>	<i>1.90%</i>
<i>35 or more but less than 40</i>	<i>2.0%</i>
<i>40 or more</i>	<i>3.0%</i>

*The total years of creditable service set forth in the two charts in this subdivision include all years of creditable service regardless of the particular Virginia Retirement System program or plan in which they were earned.*

b. For any other employee, the allowance shall equal ~~1.70 percent~~ *of his average final compensation multiplied by the amount of creditable service multiplied by a percentage of his average final compensation as set forth in the following chart.*

<i>Years of Creditable Service</i>	<i>Percentage of Average Final Compensation</i>
<i>Less than 25</i>	<i>1.70%</i>
<i>25 or more but less than 30</i>	<i>1.80%</i>
<i>30 or more but less than 35</i>	<i>1.90%</i>
<i>35 or more but less than 40</i>	<i>2.0%</i>
<i>40 or more</i>	<i>3.0%</i>

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 shall retire under the provisions of the retirement system for which he is a member as of his retirement date; and

179 b. For all other individuals retiring pursuant to subdivision B 1 of § 51.1-216, and for an individual  
180 retiring pursuant to subdivision B 2 of § 51.1-216 who has less than 25 years of service at retirement,  
181 the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period  
182 by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first  
183 date on or after his fiftieth birthday on which he would have completed a total of 25 years of creditable  
184 service.

185 B. Any person who is an employee on June 30, 2001, and on July 1, 2001, who does not make the  
186 election provided in § 51.1-221, shall receive, in addition to the allowance payable under subsection A,  
187 from the date of his retirement until his sixty-fifth birthday, an annual allowance equal to \$9,264.  
188 Beginning July 1, 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the  
189 Board to an amount recommended by the actuary of the Virginia Retirement System based upon  
190 increases in Social Security benefits in the interim. This subsection shall not apply to the following: (i)  
191 any member who qualifies for retirement under subsection C of § 51.1-216 and is credited with less than  
192 20 years' service rendered in a hazardous position or (ii) any member employed initially on or after July  
193 1, 1974, who is credited with less than 20 years' service rendered in a hazardous position.

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

197 D. No person shall be eligible to receive any of the allowances provided in this section if he receives  
198 retirement benefits under Chapter 2 (§ 51.1-200 et seq.) of Title 51.1 or under § 51.1-138. No person  
199 shall receive any allowance pursuant to subdivision A 1 (i) if he has received an allowance pursuant to  
200 subsection B of § 51.1-206 or subsection B of § 51.1-217, unless, after receiving the allowance pursuant  
201 to subsection B of § 51.1-206 or subsection B of § 51.1-217, he becomes employed or reemployed as an  
202 employee defined in § 51.1-212, and thereafter earns five or more years of creditable service (a) as a  
203 member in the retirement system established by this chapter, (b) as a member in the retirement system  
204 established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by  
205 § 51.1-138.