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SENATE BILL NO. 175

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact §§ 51.1-155, 51.1-157, 51.1-206, and 51.1-217 of the Code of Virginia, relating to retirement benefits for state and local employees.

Patrons—Wampler and Reynolds

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-155, 51.1-157, 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: 1.70% of his average final compensation for retirements prior to July 1, 2006; 1.75% of his average final compensation for retirements beginning July 1, 2006, through June 30, 2007; 1.80% of his average final compensation for retirements beginning July 1, 2007, through June 30, 2008; 1.85% of his average final compensation for retirements beginning July 1, 2008, through June 30, 2009; 1.90% of his average final compensation for retirements beginning July 1, 2009, through June 30, 2010; 1.95% of his average final compensation for retirements beginning July 1, 2010, through June 30, 2011; and 2.0% of his average final compensation for retirements on and after July 1, 2011.~~

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 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

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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 § 51.1-157. Disability retirement allowance.

98 A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or
99 more years of creditable service shall receive an annual retirement allowance during his lifetime and
100 continued disability equal to ~~1.70 percent of his average final compensation multiplied by~~ the smaller of
101 (i) twice the amount of his creditable service or (ii) the amount of creditable service he would have
102 completed at age 60 if he had remained in service to that age, *multiplied by: 1.70% of his average final*
103 *compensation for retirements prior to July 1, 2006; 1.75% of his average final compensation for*
104 *retirements beginning July 1, 2006, through June 30, 2007; 1.80% of his average final compensation for*
105 *retirements beginning July 1, 2007, through June 30, 2008; 1.85% of his average final compensation for*
106 *retirements beginning July 1, 2008, through June 30, 2009; 1.90% of his average final compensation for*
107 *retirements beginning July 1, 2009, through June 30, 2010; 1.95% of his average final compensation for*
108 *retirements beginning July 1, 2010, through June 30, 2011; and 2.0% of his average final compensation*
109 *for retirements on and after July 1, 2011.* If a member has already attained age 60, the amount of
110 creditable service at his date of retirement shall be used.

111 For retirements between October 1, 1994, and December 31, 1998, any employee or local officer
112 who is a member or beneficiary of a retirement system administered by the Board shall receive an
113 additional retirement allowance equal to three percent of the disability retirement allowance payable
114 under this section; provided that, for purposes of this additional retirement allowance, the term employee
115 shall include only those employees of political subdivisions that have adopted a resolution providing for
116 such an allowance under subsection B of § 51.1-130. Average final compensation attributable to service
117 as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be
118 included in computing this additional retirement allowance.

119 B. Workers' compensation guarantee. - If a member retires for disability from a cause which is
120 compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the

annual retirement allowance shall equal sixty-six and two-thirds percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A or under the provisions of this subsection.

C. Reduction of allowance. - Any allowance payable to a member who retires for disability from a cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of any payments under the provisions of the Act in effect on the date of retirement of the member and the excess of the allowance shall be paid to the member. When the time for compensation payments under the Act has elapsed, the member shall receive the full amount of the allowance payable during his lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

D. Special retirement allowance guarantee. - Any member retired from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals fifty percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal thirty-three and one-third percent of his average final compensation.

E. Determination of retirement allowance. - For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

§ 51.1-206. 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 *multiplied by: 1.70% of his average final compensation for retirements prior to July 1, 2006; 1.75% of his average final compensation for retirements beginning July 1, 2006, through June 30, 2007; 1.80% of his average final compensation for retirements beginning July 1, 2007, through June 30, 2008; 1.85% of his average final compensation for retirements beginning July 1, 2008, through June 30, 2009; 1.90% of his average final compensation for retirements beginning July 1, 2009, through June 30, 2010; 1.95% of his average final compensation for retirements beginning July 1, 2010, through June 30, 2011; and 2.0% of his average final compensation for retirements on and after July 1, 2011.*

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.

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 of his average final compensation 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 ~~multiplied by~~: 2.0% of his average final compensation for retirements prior to July 1, 2006; 2.05% of his average final compensation for retirements beginning July 1, 2006, through June 30, 2007; 2.10% of his average final compensation for retirements beginning July 1, 2007, through June 30, 2008; 2.15% of his average final compensation for retirements beginning July 1, 2008, through June 30, 2009; 2.20% of his average final compensation for retirements beginning July 1, 2009, through June 30, 2010; 2.25% of his average final compensation for retirements beginning July 1, 2010, through June 30, 2011; and 2.30% of his average final compensation for retirements on and after July 1, 2011; and (ii) ~~1.70 percent of his average final compensation multiplied by~~ all other creditable service, if any, ~~multiplied by~~: 1.70% of his average final compensation for retirements prior to July 1, 2006; 1.75% of his average final compensation for retirements beginning July 1, 2006, through June 30, 2007; 1.80% of his average final compensation for retirements beginning July 1, 2007, through June 30, 2008; 1.85% of his average final compensation for retirements beginning July 1, 2008, through June 30, 2009; 1.90% of his average final compensation for retirements beginning July 1, 2009, through June 30, 2010; 1.95% of his average final compensation for retirements beginning July 1, 2010, through June 30, 2011; and 2.0% of his average final compensation for retirements on and after July 1, 2011; and

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~~: 1.70 % of his average final compensation for retirements prior to July 1, 2006; 1.75% of his average final compensation for retirements beginning July 1, 2006, through June 30, 2007; 1.80% of his average final compensation for retirements beginning July 1, 2007, through June 30, 2008; 1.85% of his average final compensation for retirements beginning July 1, 2008, through June 30, 2009; 1.90% of his average final compensation for retirements beginning July 1, 2009, through June 30, 2010; 1.95% of his average final compensation for retirements beginning July 1, 2010, through June 30, 2011; and 2.0% of his average final compensation for retirements on and after July 1, 2011.

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

b. For all other individuals retiring pursuant to subdivision B 1 of § 51.1-216, and for an individual retiring pursuant to subdivision B 2 of § 51.1-216 who 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.

B. Any person who is an employee on June 30, 2001, and on July 1, 2001, who does not make the election provided in § 51.1-221, shall receive, in addition to the allowance payable under subsection A, from the date of his retirement until his sixty-fifth birthday, an annual 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 § 51.1-216 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.

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.

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

2. That the increases in the multipliers for average final compensation in the first enactment shall apply to retirement allowances payable to applicable employees who retire on or after July 1, 2006.

3. That the annual retirement allowance paid to any member, who retired prior to July 1, 2006, of the Virginia Retirement System (§ 51.1-124.1 et seq.), State Police Officers' Retirement System (§ 51.1-200 et seq.), Virginia Law Officers' Retirement System (§ 51.1-211 et seq.), or pursuant to the provisions of § 51.1-138, shall be increased, in addition to any other increases provided by law, by one-half of one percent each year for six consecutive years. The increase shall be effective on July 1 of each such year, beginning July 1, 2006.