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**SENATE BILL NO. 393**

Offered January 11, 2006

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*A BILL to amend and reenact §§ 51.1-138 and 51.1-206 of the Code of Virginia, relating to retirement benefits for state and local law-enforcement officers.*

Patrons—Stolle, Deeds, Houck, Obenshain and Puckett; Delegates: Iaquinto and Moran

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:****1. That §§ 51.1-138 and 51.1-206 of the Code of Virginia are amended and reenacted as follows:****§ 51.1-138. Benefits.**

*For purposes of this section, "total reimbursable contribution costs" means that portion of the annual amount charged by the Virginia Retirement System to a county or city for retirement contributions for deputy sheriffs that is attributable (i) to only those deputy sheriffs whose salaries are funded or reimbursed by the Compensation Board; and (ii) using salaries as fixed by the Compensation Board for those deputy sheriffs described in clause (i).*

A. Employees who become members under this article and on whose behalf contributions are paid as provided in this article shall be entitled to benefits under the retirement system.

B. By resolution legally adopted and approved by the Board, the employer may elect to provide benefits equivalent to those provided under the State Police Officers' Retirement System, as set out in Chapter 2 (§ 51.1-200 et seq.) of this title except for § 51.1-209 *and except as provided in subsection D*, in lieu of the benefits that would otherwise be provided hereunder for any employees who are employed in (i) law-enforcement positions comparably hazardous to that of a state police officer, including any sworn law-enforcement officer who has the duty and obligation to enforce the penal and traffic laws of this Commonwealth as directed by his superior officer, if so certified by his appointing authority, (ii) positions as full-time salaried fire fighters, or (iii) positions as regional jail superintendents and jail officers of regional jail farms, regional jails or jail authorities, as approved by the respective jail board or authority and by the participating political subdivisions of such entities. Sheriffs *and deputy sheriffs* of political subdivisions which participate in the retirement system shall receive benefits equivalent to those of state police officers, except for the benefits provided under § 51.1-209 *and except as provided in subsection D*, regardless of whether the employer has elected to provide equivalent benefits as set out in this subsection.

C. Each employer providing the benefits of subsection B for its employees prior to July 1, 1990, may elect to provide for the early retirement of employees as set forth in this subsection in lieu of the early retirement and death before retirement provisions of the State Police Officers' Retirement System. Such election must be made to the Board in writing prior to July 1, 1990. Any member in service on or after his fifty-fifth 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 this title, or (iii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title may retire upon written notification to the Board setting forth at what time the retirement is to become effective. The effective date shall be after his last day of service but shall not be more than 90 days prior to the filing of such notice. The member shall receive an allowance that shall be determined in the same manner as for retirement at an employee's normal retirement with creditable service and average final compensation being determined as of the date of his 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 (a) the member's normal retirement date or (b) the first date on or after the member's fifty-fifth birthday on which the member would have completed a total of 30 years of creditable service. Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under this chapter, Chapter 2 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-205 and 51.1-216.

Members retiring under the provisions of this subsection shall be entitled to receive post-retirement supplements as provided in § 51.1-166. In computing the amount of any supplement, any additional allowances being paid under the provisions of subsection B of § 51.1-206 shall be disregarded. In the case of death before retirement, members whose employers elect to provide benefits in accordance with the provisions of this subsection and who have not attained the age of 50 on the date of death shall be

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59 assumed to be 50 years of age for the purposes of reducing the benefits on an actuarial equivalent basis.

60 *D. Any person being provided benefit coverage equivalent to the benefits provided under the State*  
61 *Police Officers' Retirement System pursuant to this section shall, for purposes of his annual retirement*  
62 *allowance, be eligible to have his creditable service multiplied by 1.70% of his average final*  
63 *compensation. Except as provided in subsection F, this shall be in lieu of such person being eligible for*  
64 *having his creditable service multiplied by 2.20% of his average final compensation, for which state*  
65 *police officers are eligible under Chapter 2 of this title. Nothing in this subsection shall affect such*  
66 *person's eligibility for the additional allowance under subsection B of § 51.1-206.*

67 *E. 1. Any county or city participating in the Virginia Retirement System and providing benefit*  
68 *coverage equivalent to the benefits provided under the State Police Officers' Retirement System to any*  
69 *deputy sheriff as of January 1, 2006, shall provide such benefit coverage to all deputy sheriffs serving*  
70 *the county or city, including any deputy sheriffs whose salaries are not funded or reimbursed by the*  
71 *Compensation Board.*

72 *2. Any county or city participating in the Virginia Retirement System and not providing benefit*  
73 *coverage equivalent to the benefits provided under the State Police Officers' Retirement System to any*  
74 *deputy sheriff as of January 1, 2006, shall provide such benefit coverage beginning July 1, 2006, to all*  
75 *deputy sheriffs serving the county or city, including any deputy sheriffs whose salaries are not funded or*  
76 *reimbursed by the Compensation Board.*

77 *For each such county or city described in this subdivision, the Compensation Board shall beginning*  
78 *with the 2006-2007 fiscal year, and for each fiscal year thereafter, fund or reimburse 100% of the*  
79 *county's or city's total reimbursable contribution costs.*

80 *In no case, however, shall the amount funded or reimbursed to a county or city described in this*  
81 *subdivision in any fiscal year be less than the amount computed by applying the employer retirement*  
82 *contribution rate in effect that is generally applicable for state employees, as such term is defined in*  
83 *§ 51.1-124.3, to the salaries of the deputy sheriffs (serving such county or city) whose salaries are*  
84 *funded or reimbursed by the Compensation Board. For purposes of this computation, the salaries of*  
85 *such deputy sheriffs shall be the salaries for such persons as fixed by the Compensation Board.*

86 *F. 1. Any person being provided benefit coverage equivalent to the benefits provided under the State*  
87 *Police Officers' Retirement System pursuant to this section shall have a portion of his creditable service*  
88 *multiplied by 2.20% of his average final compensation, if the employee, or his employer, makes the*  
89 *payments required under this subsection. The 2.20% multiplier shall be in lieu of the 1.70% multiplier*  
90 *as provided in subsection D, provided the employee or his employer makes the payments required under*  
91 *this subsection.*

92 *2. The portion of the creditable service described in subdivision 1 of this subsection that shall be*  
93 *subject to a 2.20% multiplier shall be that portion of such service for which the employee or his*  
94 *employer has paid the actuarial equivalent cost of increasing the average final compensation multiplier*  
95 *from 1.70% to 2.20%.*

96 *3. Payment may be made in a lump sum at the time of purchase or by an additional payroll*  
97 *deduction, both made from the employee's salary. Only one additional payroll deduction shall be*  
98 *permitted at any time.*

99 *Such payments shall be made from the employee's salary earned after the employee has signed an*  
100 *irrevocable payroll authorization form prescribed by the Board. After the authorization has been*  
101 *completed, the employer shall deduct the proper amount from the employee's salary and shall remit the*  
102 *same to the Virginia Retirement System. All such amounts deducted and remitted to the Virginia*  
103 *Retirement System shall be treated as additional employer contributions in lieu of member contributions.*  
104 *In no case shall the employer remit the deducted amounts directly to the employee.*

105 *4. Any employer may elect to pay the actuarial equivalent cost in lieu of all member contributions*  
106 *for the purpose of increasing the multiplier of average final compensation from 1.70% to 2.20% for the*  
107 *creditable service of any class of employees described in subsection B who are being provided benefit*  
108 *coverage equivalent to the benefits provided under the State Police Officers' Retirement System. Such*  
109 *contributions shall not be considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.) of this title,*  
110 *nor shall they be considered to be salary or creditable compensation for purposes of this chapter.*

111 *ÐG. The retirement system shall not be liable for the payment of any retirement allowances or other*  
112 *benefits on behalf of a member or beneficiary of a member for which reserves have not been previously*  
113 *created from funds contributed by the employer or the members for such benefits.*

114 *§ 51.1-206. Service retirement allowance.*

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

116 *1. Normal retirement. - The allowance shall equal 4.70 2.20 percent of his average final*  
117 *compensation multiplied by the amount of creditable service.*

118 *For retirements between October 1, 1994, and December 31, 1998, any state police officer who is a*  
119 *member or beneficiary of a retirement system administered by the Board shall receive an additional*  
120 *retirement allowance equal to three percent of the service or disability retirement allowance payable*

121 under this section. Average final compensation attributable to service as Governor, Lieutenant Governor,  
122 Attorney General, or member of the General Assembly shall not be included in computing this  
123 additional retirement allowance.

124 2. Early retirement. - The allowance shall be determined in the same manner as for normal retirement  
125 with creditable service and average final compensation being determined as of the date of actual  
126 retirement. If the member has less than 25 years of service at retirement, the amount of the retirement  
127 allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement  
128 date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his fiftieth  
129 birthday on which he would have completed a total of 25 years of creditable service.

130 B. In addition to the allowance payable under subsection A, a member shall receive annually from  
131 the date of his retirement until his retirement age, as such term is defined under the Social Security Act  
132 (42 U.S.C. § 416 et seq., as now or hereafter amended), an allowance equal to \$9,264. Beginning July 1,  
133 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an  
134 amount recommended by the actuary of the Virginia Retirement System based upon increases in social  
135 security benefits in the interim.

136 This subsection shall not apply to the following: (i) any member who qualifies for retirement under  
137 subsection C of § 51.1-205 and is credited with less than 20 years' service rendered in a hazardous  
138 position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than  
139 20 years' service rendered in a hazardous position. However, any service rendered as an employee, as  
140 such term is defined in § 51.1-212, shall be deemed as service in a hazardous position for purposes of  
141 the additional retirement allowance herein.

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

145 **2. That the provisions of this act shall not apply to (i) retirement allowances for retirements that**  
146 **are effective prior to July 1, 2006, or (ii) retirement allowances relating to a member who died**  
147 **prior to July 1, 2006.**