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**SENATE BILL NO. 603**

Offered January 11, 2006

A *BILL to amend and reenact §§ 51.1-305 and 51.1-1405 of the Code of Virginia, relating to health benefits for judges who defer retirement.*

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Patron—Reynolds

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Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:****1. That §§ 51.1-305 and 51.1-1405 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-305. Service retirement generally.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board setting forth the date the retirement is to become effective.

B. Early retirement. - Any member in service who has either (i) attained his fifty-fifth birthday with five or more years of creditable service or (ii) in the case of a member of any of the previous systems immediately prior to July 1, 1970, complied with the requirements for retirement set forth under the provisions of such previous system as in effect immediately prior to July 1, 1970, may retire upon written notification to the Board setting forth the date the retirement is to become effective.

B1. Mandatory retirement. - Any member who attains 70 years of age shall be retired 20 days after the convening of the next regular session of the General Assembly. However, if the mandatory retirement provisions of this subdivision would require a member of the State Corporation Commission to be retired before the end of his elected term and such retirement would occur during a session of the General Assembly in which the General Assembly is required, pursuant to § 12.1-6, to elect another member or members of the State Corporation Commission to serve either a regular term or a portion of a regular term, such member who otherwise would be subject to the mandatory retirement provisions of this subdivision shall be retired upon the first to occur of (i) the expiration of the term to which he was elected or (ii) 20 days after the commencing of the regular session of the General Assembly that immediately follows the date such member attains 72 years of age. The provisions of this subsection shall apply only to those members who are elected or appointed to an original or subsequent term commencing after July 1, 1993.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service may retire under the provisions of subsection A or B of this section, if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. *Any member who defers retirement pursuant to this subsection and who has attained his fiftieth birthday with 10 or more years of actual, nonweighted service shall be eligible to continue participation in the state health plan.* No member shall be entitled to the benefits of this subsection if his appointing authority certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than 90 days prior to the filing of the notice of retirement.

E. Notification of retirement. - In addition to the notice to the Board required by this section, the same notice shall be given by the member to his appointing authority. If a member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification to the Board on his behalf.

§ 51.1-1405. Participation in the state retiree health benefits program.

A. As used in this section, unless the context requires a different meaning:

"Involuntarily separated" means separated from state service as the result of any dismissal, requested resignation, or failure to obtain reappointment, excluding a separation resulting from a conviction for a felony or crime involving moral turpitude or dishonesty or a separation related to the job performance or misconduct of the state employee.

"Retiree health benefits program" or "program" means the plan for providing health insurance coverage for retired state employees provided pursuant to subsection E of § 2.2-2818.

"State employee" means the same as that term is defined in § 2.2-2818.

"State retiree" means a state employee retired under the Virginia Retirement System, State Police

INTRODUCED

SB603

59 Officers' Retirement System, Judicial Retirement System *when the judge has attained at least the age of*  
60 *50 and has at least 10 actual, nonweighted years of service*, Virginia Law Officers' Retirement System,  
61 or any retirement system authorized pursuant to § 51.1-126, who is eligible to receive a monthly  
62 retirement annuity from that retirement system.

63 B. A state retiree shall be eligible to participate in the retiree health benefits program only if he  
64 makes an election to participate in the program within thirty-one days following the date of termination  
65 of employment with the Commonwealth. A retired state employee who fails to elect to participate in the  
66 state health plan within thirty-one days of the effective date of retirement, or who, once having elected  
67 to participate, discontinues participation, is barred from participating in the state health plan thereafter.

68 C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the  
69 retiree health benefits program and is receiving monthly retirement annuity payments may elect, by  
70 notifying the Virginia Retirement System and the Department of Human Resource Management before  
71 September 1, 1999, to cease receiving monthly retirement annuity payments until reapplying for such  
72 benefits at a later date and to continue participation in the retiree health benefits program.