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**HOUSE BILL NO. 1926**

Offered January 10, 2007

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*A BILL to amend and reenact §§ 51.1-153, 51.1-155, 51.1-205, 51.1-216, and 51.1-217 of the Code of Virginia, relating to retirement benefits for certain state employees.*

Patron—Griffith

Referred to Committee on Appropriations

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

**1. That §§ 51.1-153, 51.1-155, 51.1-205, 51.1-216, and 51.1-217 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-153. Service retirement.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire at any time upon written notification to the Board setting forth the date the retirement is to become effective. Any member in service who was denied membership prior to July 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his normal retirement date and the requirement of having five or more years of service shall not apply.

B. Early retirement. - 1. Any member in service who has attained his fifty-fifth birthday with five or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective.

2. Any state employee, teacher, or employee of a political subdivision who is a member of the retirement system may retire prior to his normal retirement date after attaining age fifty and thirty years of creditable service, upon written notification to the Board setting forth the date the retirement is to become effective. The benefit for such member shall be calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service, regardless of termination date, may retire under the provisions of subsection A, B, or D of this section if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn.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. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. Other early retirement. - Any member in service on or after January 1, 1994, (i) who has attained his fiftieth birthday with ten or more years of creditable service or (ii) who is a state employee with 20 or more years of creditable service who is terminally ill as defined in § 1861 (dd) (3) (A) of the Social Security Act and who has not attained his fiftieth birthday may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective. For purposes of determining the benefits of any employee who retires pursuant to clause (ii), he will be deemed to be 50 years of age.

E. 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 ninety days prior to the filing of the notice of retirement.

F. Notification on behalf of member. - If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

§ 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.

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

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HB1926

59 service. The provisions of this subdivision shall apply to teachers and state employees. These provisions  
60 shall also apply to employees of any political subdivision that participates in the retirement system if the  
61 political subdivision makes the election provided in subdivision 3.

62 3. Early retirement; applicable to employees of certain political subdivisions. - The allowance shall  
63 be determined in the same manner as for normal retirement with creditable service and average final  
64 compensation being determined as of the date of actual retirement. If the creditable service of the  
65 member equals 30 or more years but the sum of his age at retirement plus his creditable service at  
66 retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial  
67 equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal  
68 retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable  
69 service would have been equal to 90 or more had he remained in service until such date. If the member  
70 has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by  
71 which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date  
72 on which he would have completed a total of at least 30 years of creditable service and his then  
73 creditable service plus his then attained age would have been equal to 90 or more.

74 The provisions of this subdivision shall apply to the employees of any political subdivision that  
75 participates in the retirement system. The participating political subdivision may, however, elect to  
76 provide its employees with the early retirement allowance set forth in subdivision 2. Any election  
77 pursuant to this subdivision shall be set forth in a legally adopted resolution.

78 4. Additional allowance. - In addition to the allowance payable under subdivisions 1, 2, and 3, a  
79 member shall receive an additional allowance which shall be the actuarial equivalent, for his attained  
80 age at the time of retirement, of the excess of his accumulated contributions transferred from the  
81 abolished system to the retirement system, including interest credited at the rate of two percent  
82 compounded annually since the transfer to the date of retirement, over the annual amounts equal to four  
83 percent of his annual creditable compensation at the date of abolishment for a period equal to his period  
84 of membership in the abolished system.

85 5. Other early retirement. - ~~The~~For early retirement taken pursuant to subsection D of § 51.1-153,  
86 the allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial  
87 equivalent of the benefit the member would have received had he terminated service and deferred  
88 retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated  
89 contributions, including accrued interest.

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

91 1. Except as provided in subdivisions 2 and 3, if a beneficiary of a service retirement allowance  
92 under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3  
93 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement  
94 purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1  
95 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed.  
96 Any member who retires and later returns to covered employment shall not be entitled to select a  
97 different retirement option for a subsequent retirement.

98 2. Active members of the General Assembly who are eligible to receive a retirement allowance under  
99 this title, excluding their service as a member of the General Assembly, shall be eligible to receive a  
100 retirement allowance based on their creditable service and average final compensation for service other  
101 than as a member of the General Assembly. Such members of the General Assembly shall continue to  
102 be reported as any other members of the retirement system. Upon ceasing to serve in the General  
103 Assembly, members of the General Assembly receiving a retirement allowance based on their creditable  
104 service and average final compensation for service other than as a member of the General Assembly  
105 shall have their retirement allowance recomputed prospectively to include their service as a member of  
106 the General Assembly. Active members of the General Assembly shall be prohibited from receiving a  
107 service retirement allowance under this title based solely on their service as a member of the General  
108 Assembly.

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

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

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

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

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

§ 51.1-205. Service retirement generally.

A. Normal retirement. - Any member in service at his normal retirement date 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 2.1 (§ 51.1-211 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board, setting forth the date the retirement is to become effective. Any member, except one appointed by the Governor or elected by the people, who attains 70 years of age shall be retired forthwith. Any employer, subsequent to the employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that the employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.

Effective December 31, 2003, any member in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.), this chapter, or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-216.

B. Early retirement. - 1. Any member in service who has attained his fiftieth 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 2.1 (§ 51.1-211 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board setting forth the date the retirement is to become effective.

2. *In addition, any member in service who is a state employee and meets the requirements of subdivision 1 except that he has not attained his fiftieth birthday and who has (i) 20 or more years of creditable service and (ii) is terminally ill as defined in § 1861 (dd) (3) (A) of the Social Security Act may retire upon written notification to the Board setting forth the date the retirement is to become effective. For purposes of determining the benefits of any employee who retires pursuant to this subdivision, he shall be deemed to be 50 years of age.*

3. Effective December 31, 2003, any member in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.), this chapter, or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-216.

C. Deferred retirement for members terminating service. - Any member who terminates service after 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 2.1 (§ 51.1-211 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138, may retire under the provisions of subsection A, B, or D 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 (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title, or (c) while earning the benefits permitted by § 51.1-138, regardless of termination date, 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. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

Effective December 31, 2003, any member in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.), this chapter, or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-216.

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 on behalf of member. - If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

§ 51.1-216. Service retirement generally.

A. Normal retirement.

1. Any employee commencing employment or reemployment on or after July 1, 2001, and any employee who makes the election provided in § 51.1-221, who is a member in service in any retirement program administered by the Virginia Retirement System at his normal retirement date with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a

182 member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while  
183 earning the benefits permitted by § 51.1-138, may retire upon written notification to the Board, setting  
184 forth the date the retirement is to become effective.

185 Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is  
186 credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of  
187 this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting  
188 requirements of this section, and §§ 51.1-138 and 51.1-205.

189 2. Any other employee who is a member in service at his normal retirement date with five or more  
190 years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a  
191 member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while  
192 earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board, setting  
193 forth the date the retirement is to become effective.

194 Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is  
195 credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of  
196 this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting  
197 requirements of this section, and §§ 51.1-138 and 51.1-205.

198 B. Early retirement.

199 1. Any employee commencing employment or reemployment on or after July 1, 2001, and any  
200 employee who makes the election provided in § 51.1-221, who is a member in service in any retirement  
201 program administered by the Virginia Retirement System other than the program established by this  
202 chapter shall retire pursuant to the early retirement provisions of the retirement program of which he is a  
203 member at the time of retirement.

204 Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is  
205 credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of  
206 this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting  
207 requirements of this section, and §§ 51.1-138 and 51.1-205.

208 2. Any other employee who is a member in service and who has attained his fiftieth birthday with  
209 five or more years of creditable service (i) as a member in the retirement system established by this  
210 chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this  
211 title, or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to  
212 the Board setting forth the date the retirement is to become effective.

213 3. *In addition, any member in service who is a state employee and meets the requirements of*  
214 *subdivision 1 except that he has not attained his fiftieth birthday and who has (i) 20 or more years of*  
215 *creditable service and (ii) is terminally ill as defined in § 1861 (dd) (3) (A) of the Social Security Act*  
216 *may retire upon written notification to the Board setting forth the date the retirement is to become*  
217 *effective. For purposes of determining the benefits of any employee who retires pursuant to this*  
218 *subdivision, he shall be deemed to be 50 years of age.*

219 4. Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is  
220 credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of  
221 this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting  
222 requirements of this section, and §§ 51.1-138 and 51.1-205.

223 C. Deferred retirement for members terminating service.

224 1. Any employee commencing employment or reemployment on or after July 1, 2001, and any  
225 employee who makes the election provided in § 51.1-221, who terminates service from any position with  
226 membership in any retirement program administered by the Virginia Retirement System, may retire  
227 under the provisions of subdivision A 1 or B 1 if (i) he is otherwise eligible for such benefits, (ii) he  
228 has not withdrawn his accumulated contributions prior to the effective date of his retirement, and (iii) he  
229 has five or more years of creditable service (a) as a member in the retirement system established by this  
230 chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this  
231 title, or (c) while earning the benefits permitted by § 51.1-138 for which his employer has paid the  
232 contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any  
233 requirements as to the member being in service shall not apply. No member shall be entitled to the  
234 benefits of this subsection if his employer certifies that his service was terminated because of  
235 dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

236 Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is  
237 credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of  
238 this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting  
239 requirements of this section, and §§ 51.1-138 and 51.1-205.

240 2. Any other member who terminates service after five or more years of creditable service (i) as a  
241 member in the retirement system established by this chapter, (ii) as a member in the retirement system  
242 established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by  
243 § 51.1-138 may retire under the provisions of subdivision A 2 or B 2 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 (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 this title, or (c) while earning the benefits permitted by § 51.1-138 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. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

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 Chapter 1 (§ 51.1-100 et seq.) of this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-205.

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

E. Notification on behalf of member. - If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

§ 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; and (ii) 1.70 percent of his average final compensation multiplied by all other creditable service, if any; 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.

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

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 or B 3 of § 51.1-216 who has less than twenty-five 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 twenty-five 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 twenty 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 twenty 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

**305** established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by  
**306** § 51.1-138.