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**HOUSE BILL NO. 2096**

Offered January 10, 2007

Prefiled January 8, 2007

*A BILL to amend and reenact §§ 51.1-124.3 and 51.1-142.2 of the Code of Virginia, relating to the Virginia Retirement System; accumulated contributions.*

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 Referred to Committee on Appropriations
 

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

**1. That §§ 51.1-124.3 and 51.1-142.2 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-124.3. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1990/1980, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his 36 highest consecutive months of creditable service or during the entire period of his creditable service if less than 36 months. If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

"Beneficiary" means any person entitled to receive benefits under this chapter.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Creditable compensation" means the full compensation payable annually to an employee working full time in his covered position. For any state employee of a public institution of higher education or a teaching hospital affiliated with a public institution of higher education who is (i) compensated on a salaried basis, and (ii) working full time in a covered position pursuant to a contract of employment for a period of at least nine months, creditable compensation means the full compensation payable over the term of any contract entered into between the employee and the employer, without regard to whether or not the term of the contract coincides with the normal scholastic year. However, if the contract is for more than one year, creditable compensation means that compensation paid for the current year of the contract.

Remuneration received by members of the General Assembly not otherwise retired under the provisions of this chapter pursuant to §§ 30-19.11 and 30-19.12 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly.

"Creditable service" means prior service as set forth in § 51.1-142.2 plus membership service for which credit is allowable.

"Employee" means any teacher, state employee, officer, or employee of a locality participating in the Retirement System.

"Employer" means the Commonwealth in the case of a state employee, the local public school board in the case of a teacher, or the political subdivision participating in the Retirement System.

"Joint Rules Committee" means those members of the House of Delegates and the Senate designated by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet

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59 with each other and to act jointly on behalf of the Committee on Rules for each house.

60 "Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth,  
61 clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

62 "Medical Board" means the board of physicians as provided by this chapter.

63 "Member" means any person included in the membership of the Retirement System.

64 "Membership service" means service as an employee rendered while a contributing member of the  
65 Retirement System except as provided in this chapter.

66 "Normal retirement date" means a member's sixty-fifth birthday.

67 "Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or  
68 unit of the Commonwealth, or any commission, public authority, or body corporate created by or under  
69 an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the  
70 commission, public authority, or body corporate.

71 "Primary social security benefit" means, with respect to any member, the primary insurance amount  
72 to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions  
73 of the federal Social Security Act as in effect at his date of retirement, under the provisions of this  
74 chapter except as otherwise specifically provided.

75 "Prior service" means service rendered prior to becoming a member of the Retirement System.

76 "Purchase of service contract" means a contract entered into by the member and the Retirement  
77 System for the purchase of service credit by the member as provided in § 51.1-142.2.

78 "Retirement allowance" means the retirement payments to which a member is entitled.

79 "Retirement System" means the Virginia Retirement System.

80 "Service" means service as an employee.

81 "State employee" means any person who is regularly employed full time on a salaried basis, whose  
82 tenure is not restricted as to temporary or provisional appointment, in the service of, and whose  
83 compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or  
84 any department, institution, or agency thereof. "State employee" shall include any faculty member, but  
85 not including adjunct faculty, of a public institution of higher education (a) who is compensated on a  
86 salary basis, (b) whose tenure is not restricted as to temporary or provisional appointment, and (c) who  
87 regularly works at least 20 hours but less than 40 hours per week (or works the equivalent of one-half  
88 of a full time equivalent position) engaged in the performance of teaching, administrative, or research  
89 duties at such institution; such faculty member shall be deemed an eligible employee for purposes of the  
90 retirement provisions under §§ 51.1-126, 51.1-126.1, and 51.1-126.3. "State employee" shall also include  
91 the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly but shall  
92 not include (i) any local officer, (ii) any employee of a political subdivision of the Commonwealth, (iii)  
93 individuals employed by the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv)  
94 any member of the State Police Officers' Retirement System, (v) any member of the Judicial Retirement  
95 System, or (vi) any member of the Virginia Law Officers' Retirement System.

96 "Teacher" means any person who is regularly employed full time on a salaried basis as a professional  
97 or clerical employee of a county, city, or other local public school board.

98 § 51.1-142.2. Prior service or membership credit for certain members; service credit for accumulated  
99 sick leave.

100 Certain members may purchase credit for service as provided in this section.

101 A. 1. In order to receive credit for the service made available in subsection B, a member in service  
102 shall be required to make a payment. For each year, or portion thereof, to be credited at the time of  
103 purchase, a member shall pay an amount equal to five percent of his creditable compensation or five  
104 percent of his average final compensation, whichever is greater, unless the member in service is  
105 purchasing the service made available in subsection B through a pre-tax or post-tax deduction, in which  
106 case the cost to purchase each year, or portion thereof, of such service shall be five percent of his  
107 creditable compensation. However, if a person becoming a member on or after July 1, 2001, does not  
108 purchase, or enter into a purchase of service contract for, such service within three years from his first  
109 date of hire or within three years of the final day of any leave of absence under subdivision B 3 2, as  
110 applicable, then, for each year to be credited at the time of purchase, the member shall pay an amount  
111 equal to the actuarial equivalent cost.

112 2. If a member in service on June 30, 2001, and July 1, 2001, did not, prior to July 1, 2001,  
113 purchase, or enter into a contract with the Retirement System to purchase, such service under former  
114 § 51.1-142, then, for each year, or portion thereof, to be credited at the time of purchase, the member  
115 shall pay an amount equal to the actuarial equivalent cost, unless such member purchases, or enters into  
116 a purchase of service contract for, such service within three years from the date he became eligible to  
117 purchase the service or by July 1, 2004, whichever is later. If the service is purchased or a purchase of  
118 service contract is entered into within such time period, the cost to the member for each year to be  
119 credited at the time of purchase shall be five percent of his creditable compensation or five percent of  
120 his average final compensation, whichever is greater, unless the member in service is purchasing such

121 service through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion  
122 thereof, of such service shall be five percent of his creditable compensation. If such member first  
123 becomes eligible to purchase any of the service under subsection B after July 1, 2001, the cost of such  
124 service or portion thereof shall be as provided in subsection A, except that the three-year period in  
125 which to purchase, or enter into a purchase of service contract for, such service shall commence on the  
126 first day the member becomes eligible to purchase the service.

127 3. When a member requests credit for a portion of the period, the most recent portion shall be  
128 credited. Payment may be made in a lump sum at the time of purchase or by an additional payroll  
129 deduction. Only one additional deduction shall be permitted at any time. Should the additional deduction  
130 be terminated prior to purchasing the entire period that might otherwise be credited, the member shall be  
131 credited with the number of additional months of service for which full payment is made. If the  
132 additional deduction is continued beyond the point at which the entire period has been purchased, the  
133 member shall be credited with no more than the entire period that might otherwise have been credited  
134 and the excess amount deducted shall be refunded to the member.

135 Any employer may elect to pay an equivalent amount in lieu of all member contributions required of  
136 its employees for the purpose of service credit pursuant to this section. These contributions shall not be  
137 considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.) of this title, nor shall they be  
138 considered to be salary for purposes of this chapter.

139 B. 1. Any member in service may purchase prior service credit for (i) active duty military service in  
140 the armed forces of the United States, provided that the discharge from a period of active duty status  
141 with the armed forces was not dishonorable, (ii) creditable service of another state or of a political  
142 subdivision or public school system of this or another state, as certified by such state, political  
143 subdivision or public school system, (iii) creditable service of a political subdivision of this state not  
144 credited to the member under an agreement as provided for in § 51.1-143.1, as certified by such political  
145 subdivision, (iv) civilian service of the United States, (v) creditable service at a private institution of  
146 higher education if the private institution is merged with a public institution of higher education and  
147 graduates of the private institution are then issued new degrees from the public institution, or (vi) any  
148 period of time when the member was employed by a participating employer and not otherwise eligible  
149 to participate in the retirement system because the member was not an employee as defined in  
150 § 51.1-124.3.

151 For purposes of this subsection "active duty military service" means full-time service of at least 180  
152 consecutive days in the United States Army, Navy, Air Force, Marines, Coast Guard, or reserve  
153 components thereof.

154 2. Any member (i) granted a leave of absence for educational purposes may purchase service credit  
155 for such leave of absence; or (ii) granted any unpaid leave of absence due to the birth or adoption of a  
156 child may purchase up to one year of service credit per occurrence of leave.

157 C. Any member in service may purchase service credit for creditable service lost from ceasing to be  
158 a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated  
159 contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall  
160 be five percent of his creditable compensation or five percent of his average final compensation,  
161 whichever is greater, unless the member in service is purchasing such service through a pre-tax or  
162 post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall  
163 be five percent of his creditable compensation. If the member either purchases or enters into a contract  
164 to purchase such service within three years of the date he became eligible to purchase the service or by  
165 July 1, 2004, whichever is later, then the service may be purchased in a lump sum at the time of  
166 purchase or through an additional payroll deduction. Any purchase of such service made at a time later  
167 than such period shall be made in a lump sum at the time of purchase.

168 D. Any member in service may purchase service credit for accumulated sick leave on his effective  
169 date of retirement based upon such sums as the employer may provide as payment for any unused sick  
170 leave balances. The cost of service credit purchased under this subsection shall be the actuarial  
171 equivalent cost of such service.

172 E. In any case where member and employer contributions, as required under this chapter, were not  
173 made because of an error in the payroll, personnel, or other classification system of an employer  
174 participating in the retirement system, service that has not been credited because of such error may be  
175 purchased on the following basis:

176 1. The most recent three years of service shall be purchased, using applicable member and employer  
177 contribution rates and creditable compensation in effect for such period, in a manner and cost prescribed  
178 by the Board; and

179 2. All other years of service the employer shall purchase at an actuarial equivalent cost.

180 F. The service credit to be credited to a member under this section shall be calculated at the ratio of  
181 one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased,

182 except for part-time service purchased under clause (v) of subdivision B 1 which shall be calculated at  
183 the ratio of one month of service credit for each 173 hours of service as certified by the employer and  
184 as purchased by the member. Up to a maximum of four years of service credit may be purchased for  
185 each of clauses (i) through (v) of subdivision B 1 and clause (i) and (ii) of subdivision B 2. In addition,  
186 a member in service may purchase service credit for every year or portion thereof for service lost from  
187 cessation of membership as described in subsection C.

188 Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service  
189 credit made available under this section may not be purchased if, before being purchased or at the time  
190 of such purchase pursuant to this section, the service to be purchased is service that is included in the  
191 calculation of any retirement allowance received or to be received by the member from this or another  
192 retirement system.

193 G. Any member may receive credit at no cost for service rendered in the armed forces of the United  
194 States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from  
195 a period of active duty with the armed forces was not dishonorable, (iii) the member has not withdrawn  
196 his accumulated contributions, and (iv) the member reenters service in a covered position within one  
197 year after discharge from the armed forces. In order to receive such service, the member must complete  
198 such forms and other requirements as are required by the Board and the retirement system.