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HOUSE BILL NO. 2693

Offered January 10, 2007
Prefiled January 10, 2007

A BILL to amend and reenact § 51.1-155 of the Code of Virginia, relating to retirement allowance for nurses.

Patron—Cline

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-155 of the Code of Virginia is 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.

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 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2 ~~and~~, 3, *and 4*, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) 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 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so

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employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

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

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

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

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

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

4. Any person receiving a service retirement allowance under this chapter who is hired as a (i) (a) registered nurse, clinical nurse specialist, or licensed practical nurse and (b) is licensed or registered for such occupation pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 or holds a multistate licensure privilege for such occupation under the provisions of such chapter; (ii) nurse aide (whether or not certified pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1), including but not limited to nurse aides providing care to persons with mental illness or mental retardation; or (iii) nurse practitioner described under § 54.1-2957, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

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

(b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program from any "employer" as defined in § 51.1-124.3; and

(c) The person did not participate in any incentive program established under the second or third enactment of Chapters 152 and 811 of the 1995 Acts of Assembly.

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.

2. That the Board of the Virginia Retirement System and the Joint Legislative and Audit Review Commission shall jointly determine the period of time preceding employment, required pursuant to subdivision B 4 (a) of § 51.1-155 of the Code of Virginia, that (i) will result in there being no negative fiscal impact to the Commonwealth pursuant to the provisions of this act and (ii) shall be consistent with the federal tax qualification of the relevant retirement plans administered by the Virginia Retirement System. Such determination shall be made in consultation with the actuary of the Retirement System, the actuary of the Joint Legislative and Audit Review Commission, and the chairmen of the Senate Committee on Finance and the House Committee on Appropriations. The Board shall adopt such jointly determined period of time, and no other, for purposes of providing for the persons described in subdivision B 4 (a) of § 51.1-155 of the Code of Virginia to continue to receive their retirement allowances while employed as provided in such subdivision. Only if such persons have been retired for such jointly determined period of time shall such persons be permitted to elect to continue to receive their retirement allowances while employed as provided in such subdivision, unless the general appropriation act in effect at the relevant time provides a required period of retirement that is less than such jointly determined period of time. The Board of the Virginia Retirement System shall promulgate all reasonable and necessary policies and procedures to carry out the provisions of this act.