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**HOUSE BILL NO. 2984**

Offered January 10, 2007

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*A BILL to amend and reenact §§ 51.1-138, 51.1-153, 51.1-155, 51.1-202, 51.1-206, 51.1-213, and 51.1-217 of the Code of Virginia, relating to the Virginia Retirement System; retirement benefits for state and local employees.*

Patrons—Ingram, Byron, Putney and Tata

Referred to Committee on Appropriations

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

**1. That §§ 51.1-138, 51.1-153, 51.1-155, 51.1-202, 51.1-206, 51.1-213, and 51.1-217 of the Code of Virginia are amended and reenacted as follows:**

**§ 51.1-138. Benefits.**

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 (i) *for employees hired on or after July 1, 2007, benefits equivalent to those provided to employees hired on or after July 1, 2001, under the Virginia Law Officers' Retirement System, as set out in Chapter 2.1 (§ 51.1-211 et seq.)* and (ii) *for all other employees, 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 for clause (i) of subdivision A 1 of § 51.1-206, 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, (iii) positions as full-time salaried emergency medical technicians, or (iv) 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 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, 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) while earning the benefits permitted by this section, (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 and earning the benefits permitted by this section, 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 assumed to be 50 years of age for the purposes of reducing the benefits on an actuarial equivalent basis.

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59 *D. The Compensation Board shall fund or reimburse a portion of the additional costs incurred by a*  
60 *county or city for the additional benefits provided under this section for those employees whose salaries*  
61 *are funded or reimbursed in whole or in part by the Compensation Board, based on the county's or*  
62 *city's local fiscal stress index and based on amounts set forth in the appropriations act.*

63 *E. If, prior to the time that an individual commences employment in a position for which the locality*  
64 *provides the benefits pursuant to this section, he was a vested member in the retirement system*  
65 *established by Chapter 2 (§ 51.1-200 et seq.) or Chapter 2.1 (§ 51.1-211 et seq.), he may elect to*  
66 *maintain active membership and coverage in such other retirement program instead of coverage under*  
67 *this section during his service as an employee.*

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

71 § 51.1-153. Service retirement.

72 A. Normal retirement. - Any member in service at his normal retirement date with five or more years  
73 of creditable service may retire at any time upon written notification to the Board setting forth the date  
74 the retirement is to become effective. Any member in service who was denied membership prior to July  
75 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his  
76 normal retirement date and the requirement of having five or more years of service shall not apply.

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

80 2. Any state employee, teacher, or employee of a political subdivision who is a member of the  
81 retirement system may retire prior to his normal retirement date after attaining (i) *age fifty-five and*  
82 *thirty years of creditable service for employees hired on or after July 1, 2007, and (ii) age fifty and*  
83 *thirty years of creditable service for all other employees,* upon written notification to the Board setting  
84 forth the date the retirement is to become effective. The benefit for such member shall be calculated in  
85 accordance with the provisions of subdivision A 1 of § 51.1-155.

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

95 D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his  
96 fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement  
97 date upon written notification to the Board setting forth the date the retirement is to become effective.

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

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

103 § 51.1-155. Service retirement allowance.

104 A. Retirement allowance. - A member shall receive an annual retirement allowance, payable for life,  
105 as follows:

106 1. Normal retirement. - The allowance shall equal ~~1.70~~ 1.75 percent of his average final  
107 compensation multiplied by the amount of his creditable service.

108 2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall  
109 be determined in the same manner as for normal retirement with creditable service and average final  
110 compensation being determined as of the date of actual retirement. If the member has less than 30 years  
111 of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial  
112 equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal  
113 retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable  
114 service. The provisions of this subdivision shall apply to teachers and state employees. These provisions  
115 shall also apply to employees of any political subdivision that participates in the retirement system if the  
116 political subdivision makes the election provided in subdivision 3.

117 3. Early retirement; applicable to employees of certain political subdivisions. - The allowance shall  
118 be determined in the same manner as for normal retirement with creditable service and average final  
119 compensation being determined as of the date of actual retirement. If the creditable service of the  
120 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, 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 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.

§ 51.1-202. Membership in retirement system.

Membership in the retirement system shall be compulsory for all state police officers, *except that any individual who, before being hired as a state police officer, is a vested member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) or has served five or more years as an employee while*

182 *earning the benefits under § 51.1-138 may elect to maintain active membership and coverage in the*  
183 *other retirement program instead during his service as a state police officer.*

184 § 51.1-206. Service retirement allowance.

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

186 1. Normal retirement. - The allowance shall equal *the amount of creditable service multiplied by (i)*  
187 *2.1 percent of his average final compensation for any employee hired on or after July 1, 2007, and (ii)*  
188 ~~1.70~~ 1.85 percent of his average final compensation ~~multiplied by the amount of creditable service for all~~  
189 *other members.*

190 For retirements between October 1, 1994, and December 31, 1998, any state police officer who is a  
191 member or beneficiary of a retirement system administered by the Board shall receive an additional  
192 retirement allowance equal to three percent of the service or disability retirement allowance payable  
193 under this section. Average final compensation attributable to service as Governor, Lieutenant Governor,  
194 Attorney General, or member of the General Assembly shall not be included in computing this  
195 additional retirement allowance.

196 2. Early retirement. - The allowance shall be determined in the same manner as for normal retirement  
197 with creditable service and average final compensation being determined as of the date of actual  
198 retirement.

199 a. *For any member whose allowance under subsection A is determined pursuant to clause (i) of*  
200 *subdivision A 1, if the member has less than 30 years of service at retirement, the amount of the*  
201 *retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the*  
202 *actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or*  
203 *after his fifty-fifth birthday on which he would have completed a total of 30 years of creditable service.*

204 b. *For any member whose allowance under subsection A is determined pursuant to clause (ii) of*  
205 *subdivision A 1, if the member has less than 25 years of service at retirement, the amount of the*  
206 *retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual*  
207 *retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his*  
208 *fiftieth birthday on which he would have completed a total of 25 years of creditable service.*

209 B. ~~In addition to the allowance payable~~ *Any member whose allowance under subsection A is*  
210 *determined pursuant to clause (ii) of subdivision A 1; a member* shall receive annually from the date of  
211 his retirement until his retirement age, as such term is defined under the Social Security Act (42 U.S.C.  
212 § 416 et seq., as now or hereafter amended), an allowance equal to \$9,264. Beginning July 1, 2001, and  
213 biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an amount  
214 recommended by the actuary of the Virginia Retirement System based upon increases in social security  
215 benefits in the interim.

216 This subsection shall not apply to the following: (i) any member who qualifies for retirement under  
217 subsection C of § 51.1-205 and is credited with less than 20 years' service rendered in a hazardous  
218 position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than  
219 20 years' service rendered in a hazardous position. However, any service rendered as an employee, as  
220 such term is defined in § 51.1-212, shall be deemed as service in a hazardous position for purposes of  
221 the additional retirement allowance herein.

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

225 § 51.1-213. Membership in Retirement System.

226 Membership in the Retirement System shall be compulsory for all employees, *except that any*  
227 *individual who, before being hired as an employee, was a vested member in the retirement system*  
228 *established by Chapter 2 (§ 51.1-200), or who has served five or more years as an employee while*  
229 *earning the benefits under § 51.1-138, may elect to maintain active membership and coverage in the*  
230 *other retirement program instead during his service as an employee.*

231 § 51.1-217. Service retirement allowance.

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

233 1. Normal retirement

234 a. Notwithstanding the provisions of §§ 51.1-155, 51.1-155.1 and 51.1-155.2, for any employee  
235 commencing employment or reemployment on or after July 1, 2001, and for any employee who makes  
236 the election provided in § 51.1-221, the allowance shall equal (i) two percent of his average final  
237 compensation multiplied by the amount of creditable service earned (a) as a member in the retirement  
238 system established by this chapter, (b) as a member in the retirement system established by Chapter 2  
239 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by § 51.1-138; and (ii) 1.70  
240 percent of his average final compensation multiplied by all other creditable service, if any; and

241 b. For any other employee, the allowance shall equal ~~1.70~~ 1.75 percent of his average final  
242 compensation multiplied by the amount of creditable service.

243 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 any other individual retiring pursuant to subdivision B 1 of § 51.1-216 who commences employment or reemployment on or after July 1, 2007, and for an individual retiring pursuant to subdivision B 2 of § 51.1-216 who commences employment or reemployment on or after July 1, 2007, who 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 or after his fifty-fifth birthday on which he would have completed a total of 30 years of creditable service.*

~~bc. For all any other individuals~~ individual retiring pursuant to subdivision B 1 of § 51.1-216, and for ~~an~~ any other individual retiring pursuant to subdivision B 2 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 established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by § 51.1-138.