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SENATE BILL NO. 1166

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 16, 2007)

(Patron Prior to Substitute—Senator Stolle)

A BILL to amend and reenact §§ 51.1-138 and 51.1-206 of the Code of Virginia, relating to benefits for state police officers.

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-138 and 51.1-206 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 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 that the employer may elect to establish the retirement allowance pursuant to the allowance provided in clause (i) or (ii) in subsection A 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.

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

§ 51.1-206. Service retirement allowance.

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

1. Normal retirement. - The allowance shall equal *the amount of creditable service multiplied by (i)*

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60 1.70 percent of his average final compensation *for retirements prior to July 1, 2007, multiplied by the*
61 *amount of creditable service and (ii) 1.85 percent of his average final compensation for retirements on*
62 *or after July 1, 2007.*

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

69 2. Early retirement. - The allowance shall be determined in the same manner as for normal retirement
70 with creditable service and average final compensation being determined as of the date of actual
71 retirement. If the member has less than 25 years of service at retirement, the amount of the retirement
72 allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement
73 date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his fiftieth
74 birthday on which he would have completed a total of 25 years of creditable service.

75 B. In addition to the allowance payable under subsection A, a member shall receive annually from
76 the date of his retirement until his retirement age, as such term is defined under the Social Security Act
77 (42 U.S.C. § 416 et seq., as now or hereafter amended), an allowance equal to \$9,264. Beginning July 1,
78 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an
79 amount recommended by the actuary of the Virginia Retirement System based upon increases in social
80 security benefits in the interim.

81 This subsection shall not apply to the following: (i) any member who qualifies for retirement under
82 subsection C of § 51.1-205 and is credited with less than 20 years' service rendered in a hazardous
83 position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than
84 20 years' service rendered in a hazardous position. However, any service rendered as an employee, as
85 such term is defined in § 51.1-212, shall be deemed as service in a hazardous position for purposes of
86 the additional retirement allowance herein.

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