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SENATE BILL NO. 1311

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 24, 2007)

(Patron Prior to Substitute—Senator Hawkins)

A *BILL to amend and reenact §§ 51.1-305 and 51.1-306 of the Code of Virginia, relating to early retirement under the Judicial Retirement System.*

Be it enacted by the General Assembly of Virginia:**1. That §§ 51.1-305 and 51.1-306 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-305. Service retirement generally.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board setting forth the date the retirement is to become effective.

B. 1. Early retirement. -

a. Any member in service who has either (i) attained his fifty-fifth birthday with five or more years of creditable service or (ii) ~~in the case of a member of any of the previous systems immediately prior to July 1, 1970, complied with the requirements for retirement set forth under the provisions of such previous system as in effect immediately prior to July 1, 1970,~~ may retire upon written notification to the Board setting forth the date the retirement is to become effective.

b. Any member in service who has attained his fiftieth birthday with 15 or more years of creditable service may retire upon the expiration of the current term to which he has been elected or appointed provided that such judge provides written notification of such retirement at least 180 days prior to the expiration of such term to (i) the House and Senate Committees on Commerce and Labor in the case of a member of the State Corporation Commission or the Virginia Workers' Compensation Commission or (ii) the House and Senate Committees on Courts of Justice in the case of any other judge. The notification shall provide that the member intends to retire directly from service effective on the day next following the expiration of such term. The providing of such notification to such Committees of the General Assembly shall also be deemed notification to the Board.

B+2. Mandatory retirement. - Any member who attains 70 years of age shall be retired 20 days after the convening of the next regular session of the General Assembly. However, if the mandatory retirement provisions of this subdivision would require a member of the State Corporation Commission to be retired before the end of his elected term and such retirement would occur during a session of the General Assembly in which the General Assembly is required, pursuant to § 12.1-6, to elect another member or members of the State Corporation Commission to serve either a regular term or a portion of a regular term, such member who otherwise would be subject to the mandatory retirement provisions of this subdivision shall be retired upon the first to occur of (i) the expiration of the term to which he was elected or (ii) 20 days after the commencing of the regular session of the General Assembly that immediately follows the date such member attains 72 years of age. The provisions of this subsection shall apply only to those members who are elected or appointed to an original or subsequent term commencing after July 1, 1993.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service may retire under the provisions of subsection A or ~~B of this section~~ *subdivision B 1 a*, 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 appointing authority certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

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 of retirement. - In addition to the notice to the Board required by this section, the same notice shall be given by the member to his appointing authority. If a member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification to the Board on his behalf.

§ 51.1-306. 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 creditable service. The allowance shall not exceed seventy-eight percent of

60 the average final compensation of the member.

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

67 2. Early retirement. - ~~The~~*For any retirement pursuant to subdivision B 1 a of § 51.1-305, the*
68 *allowance shall be determined in the same manner as for normal retirement with creditable service and*
69 *average final compensation being determined as of the date of actual retirement. If the member has not*
70 *attained his sixtieth birthday or has less than thirty years of service, the amount of the retirement*
71 *allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement*
72 *date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his sixtieth*
73 *birthday on which he would have completed a total of thirty years of creditable service.*

74 *For any retirement pursuant to subdivision B 1 b of § 51.1-305, the retirement allowance shall be*
75 *determined in the same manner as for normal retirement with creditable service and average final*
76 *compensation being determined as of the date of actual retirement. If the member has not attained his*
77 *sixtieth birthday or has less than 30 years of service, the amount of the retirement allowance shall be*
78 *reduced on an actuarial equivalent basis as provided in this subdivision. Further, in no case shall the*
79 *annual retirement allowance of any member retiring pursuant to subdivision B 1 b of § 51.1-305 exceed*
80 *60 percent of the member's average final compensation.*

81 B. Normal and early retirement guarantees. - Any member who was a member of one of the previous
82 systems immediately prior to July 1, 1970, and who would have been eligible for retirement benefits
83 thereunder shall be guaranteed a minimum retirement allowance no less than that for which he would
84 have qualified had he continued to participate therein.

85 C. Determination of retirement allowance. - For the purposes of subsection B of this section, the
86 retirement allowance shall be determined on the assumption that the retirement allowance is payable to
87 the member alone and that no optional retirement allowance is elected.

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