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SENATE BILL NO. 851

Offered January 10, 2007

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A BILL to amend and reenact §§ 51.1-124.3, 51.1-132, and 51.1-155 of the Code of Virginia, relating to membership in the Virginia Retirement System for elected members of the governing bodies of counties, cities, and towns.

Patron—Lambert

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3, 51.1-132, and 51.1-155 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"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.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, 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.

Remuneration received by any member of the governing body of a county, city, or town (not otherwise retired under the provisions of this chapter) elected to such position by the citizens of the county, city, or town, with such remuneration received for service as a citizen-elected member of the governing body, shall be deemed creditable compensation. In addition, for any such member of the governing body of a county, city, or town, creditable compensation shall include the full amount of salaries payable to such person for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such person because of service as a citizen-elected member of the

59 *governing body of the county, city, or town.*

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

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

64 *The term shall also mean a member of the governing body of a county, city, or town elected to such*
65 *position by the citizens of the county, city, or town.*

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

68 "Joint Rules Committee" means those members of the House of Delegates and the Senate designated
69 by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet
70 with each other and to act jointly on behalf of the Committee on Rules for each house.

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

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

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

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

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

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

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

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

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

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

90 "Retirement System" means the Virginia Retirement System.

91 "Service" means service as an employee.

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

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

111 § 51.1-132. Eligible employees.

112 Officers and employees of the political subdivision who are regularly employed full time on a
113 salaried basis and whose tenure is not restricted as to temporary or provisional appointment may become
114 members of the retirement system. Clerks of the circuit court and deputies shall be included in the
115 coverage group. *A member of the governing body of a county, city, or town elected to such position by*
116 *the citizens of the county, city, or town shall be included in the coverage group.* Officers and employees
117 of an organization other than a public school board that functions solely within the boundaries of a
118 county, city, or town shall be deemed to be officers and employees of the county, city, or town, and not
119 of the organization, unless the cost of the organization's operation is borne by (i) the users of services,
120 (ii) more than one county, city, or town, or (iii) any entity other than a county, city, or town.

A member of a local system who, through election to a position as a constitutional officer, is no longer eligible for membership in the local system, and who, prior to such election, has accumulated within that system more than half the total service credits necessary to become eligible for full normal retirement benefits, may choose, with the concurrence of the local governing body, (i) not to participate in the retirement system established pursuant to this chapter and (ii) to become a member of the local system. In such case, the member shall be deemed, for retirement purposes only, to have ceased employment, and shall be permitted to withdraw his contribution as provided in § 51.1-161.

§ 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 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

182 Assembly, members of the General Assembly receiving a retirement allowance based on their creditable
183 service and average final compensation for service other than as a member of the General Assembly
184 shall have their retirement allowance recomputed prospectively to include their service as a member of
185 the General Assembly. Active members of the General Assembly shall be prohibited from receiving a
186 service retirement allowance under this title based solely on their service as a member of the General
187 Assembly.

188 *3. Active citizen-elected members of the governing body of a county, city, or town who are eligible to*
189 *receive a retirement allowance under this title, excluding their service as a citizen-elected member of the*
190 *governing body of the county, city, or town, shall be eligible to receive a retirement allowance based on*
191 *their creditable service and average final compensation for service other than as such citizen-elected*
192 *member. Such persons shall continue to be reported as any other members of the retirement system.*
193 *Upon ceasing to serve as a citizen-elected member of the governing body of the county, city, or town,*
194 *such persons receiving a retirement allowance based on their creditable service and average final*
195 *compensation for service other than as a citizen-elected member of the governing body of the county,*
196 *city, or town, shall have their retirement allowance recomputed prospectively to include their service as*
197 *a citizen-elected member of the governing body of the county, city, or town. Active citizen-elected*
198 *members of the governing body of a county, city, or town shall be prohibited from receiving a service*
199 *retirement allowance under this title based solely on their service as a citizen-elected member of the*
200 *governing body of the county, city, or town.*

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

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

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

209 (c) At the time the person is employed, the position to which he is assigned is among those
210 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the
211 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant
212 to subdivision 9 of § 22.1-79.

213 If the person elects to continue to receive the retirement allowance during the period of such
214 employment, then his service performed and compensation received during such period of time will not
215 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

216 **2. That the actuarial costs of providing retirement coverage under the Virginia Retirement System**
217 **for citizen-elected members of governing bodies of counties, cities, and towns pursuant to the**
218 **provisions of this act shall be borne by the respective locality.**