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HOUSE BILL NO. 369

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend and reenact §§ 51.1-205 and 51.1-216 of the Code of Virginia, relating to the Virginia Retirement System; state and local law-enforcement officers.

 Patron—Carrico

 Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. That §§ 51.1-205 and 51.1-216 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-205. Service retirement generally.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board, setting forth the date the retirement is to become effective. Any member, except one appointed by the Governor or elected by the people, who attains 70 years of age shall be retired forthwith. Any employer, subsequent to the employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that the employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.

Effective December 31, 2003, any member in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.), this chapter, or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-216.

B. Early retirement. -

1. *Fifty years old and five years of service* —Any member in service who has attained his fiftieth birthday with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board setting forth the date the retirement is to become effective.

Effective December 31, 2003, any member in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.), this chapter, or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-216.

2. *Twenty-five years of service* — Any member, regardless of age, whose creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.), or (iii) while earning the benefits permitted by § 51.1-138, totals 25 years or more, may retire upon written notification to the Board setting forth the date the retirement is to become effective.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138, may retire under the provisions of subsection A, B, or D of this section 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 (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title, or (c) while earning the benefits permitted by § 51.1-138, regardless of termination date, 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 employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

Effective December 31, 2003, any member in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.), this chapter, or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-216.

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59 D. Effective date of retirement. - The effective date of retirement shall be after the last day of
60 service of the member, but shall not be more than 90 days prior to the filing of the notice of retirement.

61 E. Notification on behalf of member. - If the member is physically or mentally unable to submit
62 written notification of his intention to retire, the member's appointing authority may submit notification
63 on his behalf.

64 § 51.1-216. Service retirement generally.

65 A. Normal retirement.

66 1. Any employee commencing employment or reemployment on or after July 1, 2001, and any
67 employee who makes the election provided in § 51.1-221, who is a member in service in any retirement
68 program administered by the Virginia Retirement System at his normal retirement date with five or more
69 years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a
70 member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while
71 earning the benefits permitted by § 51.1-138, may retire upon written notification to the Board, setting
72 forth the date the retirement is to become effective.

73 Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is
74 credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of
75 this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting
76 requirements of this section, and §§ 51.1-138 and 51.1-205.

77 2. Any other employee who is a member in service at his normal retirement date with five or more
78 years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a
79 member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while
80 earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board, setting
81 forth the date the retirement is to become effective.

82 Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is
83 credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of
84 this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting
85 requirements of this section, and §§ 51.1-138 and 51.1-205.

86 B. Early retirement.

87 1. *General* — Any employee commencing employment or reemployment on or after July 1, 2001,
88 and any employee who makes the election provided in § 51.1-221, who is a member in service in any
89 retirement program administered by the Virginia Retirement System other than the program established
90 by this chapter shall retire pursuant to the early retirement provisions of the retirement program of
91 which he is a member at the time of retirement.

92 Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is
93 credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of
94 this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting
95 requirements of this section, and §§ 51.1-138 and 51.1-205.

96 2. *Fifty years old and five years of service* — Any other employee who is a member in service and
97 who has attained his fiftieth birthday with five or more years of creditable service (i) as a member in
98 the retirement system established by this chapter, (ii) as a member in the retirement system established
99 by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138
100 may retire upon written notification to the Board setting forth the date the retirement is to become
101 effective.

102 Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is
103 credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of
104 this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting
105 requirements of this section, and §§ 51.1-138 and 51.1-205.

106 3. *Twenty-five years of service* — Any employee, regardless of age, whose creditable service (i) as a
107 member in the retirement system established by this chapter, (ii) as a member in the retirement system
108 established by Chapter 2 (§ 51.1-200 et seq.), or (iii) while earning the benefits permitted by § 51.1-138,
109 totals 25 years or more, may retire upon written notification to the Board setting forth the date the
110 retirement is to become effective.

111 C. Deferred retirement for members terminating service.

112 1. Any employee commencing employment or reemployment on or after July 1, 2001, and any
113 employee who makes the election provided in § 51.1-221, who terminates service from any position with
114 membership in any retirement program administered by the Virginia Retirement System, may retire
115 under the provisions of subdivision A 1 or B 1 if (i) he is otherwise eligible for such benefits, (ii) he
116 has not withdrawn his accumulated contributions prior to the effective date of his retirement, and (iii) he
117 has five or more years of creditable service (a) as a member in the retirement system established by this
118 chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this
119 title, or (c) while earning the benefits permitted by § 51.1-138 for which his employer has paid the
120 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 employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

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 Chapter 1 (§ 51.1-100 et seq.) of this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-205.

2. Any other member who terminates service after five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138 may retire under the provisions of subdivision A 2 or B 2 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 (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 this title, or (c) while earning the benefits permitted by § 51.1-138 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 employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

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 Chapter 1 (§ 51.1-100 et seq.) of this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-205.

D. Effective date of retirement. - The effective date of retirement shall be after the last day of service, but shall not be more than 90 days prior to the filing of the notice of retirement.

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