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HOUSE BILL NO. 596

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend and reenact § 51.1-138 of the Code of Virginia, relating to Virginia Retirement System; superintendents and sworn officers of regional jails.

Patron—Hamilton

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-138 of the Code of Virginia is 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 *and superintendents of regional jails* 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. (For applicability-see Editor's note). Beginning July 1, 2008, each county and city participating in the Virginia Retirement System shall provide the benefit coverage described in subsection B to each deputy sheriff, regardless of whether the deputy sheriff's salary is funded or reimbursed in whole or in

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part by the Compensation Board.

E. Beginning July 1, 2008, each regional jail board and regional jail authority participating in the Virginia Retirement System and each county and city participating in such board or authority shall provide the benefit coverage described in subsection B to each sworn officer of a regional jail, regardless of whether the regional jail officer's salary is funded or reimbursed in whole or in part by the State Compensation Board.

~~E~~*F*. 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.

2. That the Board of Trustees of the Virginia Retirement System shall permit the localities that were not providing retirement benefits to their regional jail officers pursuant to subsection B of § 51.1-138 of the Code of Virginia prior to July 1, 2008, to implement a five-year phase-in of the additional cost to the localities resulting from the requirements prescribed under subsection E of § 51.1-138 of the Code of Virginia.