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**HOUSE BILL NO. 695****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Appropriations  
on February 4, 2008)

(Patron Prior to Substitute—Delegate Armstrong)

A *BILL to amend and reenact §§ 51.1-153, 51.1-205, 51.1-216, and 51.1-305 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 51.1-124.13, relating to the Virginia Retirement System; loss of benefits for certain felonious convictions.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 51.1-153, 51.1-205, 51.1-216, and 51.1-305 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 51.1-124.13 as follows:**

*§ 51.1-124.13. Loss of benefits; certain felony convictions.*

*A. No person shall be entitled to any of the benefits of this title as provided in this section if (i) he is convicted of a felony, and (ii) the person's employer determines that the felony arose from misconduct occurring on or after July 1, 2008, in any position in which the person was a member covered for retirement purposes under any retirement system administered by the Board. Prior to making any such determination, the employer shall give the person reasonable prior written notice and provide an opportunity to be heard. The employer's determination may be appealed in a manner consistent with subsection E of § 2.2-3004, and no further proceedings shall follow the decision of the circuit court. The employer's determination shall become final 10 calendar days after the date of the initial determination if no appeal is filed, or the date of the decision of the circuit court if an appeal is filed. A reversal by the circuit court of the employer's determination shall render the determination null and void.*

*B. The Board shall implement the relinquishment of benefits under this title as soon as practicable after the employer notifies the Board of its final determination that the member's felony conviction arose from misconduct in any position in which the member was a member in service.*

*C. If the person is or becomes a member in service after relinquishment of benefits under subsection B, he shall be entitled to the benefits under this title based solely on his service occurring after the relinquishment.*

*D. Notwithstanding any provision of law to the contrary, any service credit lost from relinquishment of benefits under subsection B shall be ineligible for subsequent purchase.*

*E. The governing body of any locality served by a constitutional officer shall be considered that officer's employer for purposes of this section.*

*§ 51.1-153. Service retirement.*

*A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire at any time upon written notification to the Board setting forth the date the retirement is to become effective. Any member in service who was denied membership prior to July 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his normal retirement date and the requirement of having five or more years of service shall not apply.*

*B. Early retirement. - 1. Any member in service who has attained his fifty-fifth birthday with five or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective.*

*2. Any state employee, teacher, or employee of a political subdivision who is a member of the retirement system may retire prior to his normal retirement date after attaining age fifty and thirty years of creditable service, upon written notification to the Board setting forth the date the retirement is to become effective. The benefit for such member shall be calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.*

*C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service, regardless of termination date, 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 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.~~*

*D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective.*

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

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

65 § 51.1-205. Service retirement generally.

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

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

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

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

89 C. Deferred retirement for members terminating service. - Any member who terminates service after  
90 five or more years of creditable service (i) as a member in the retirement system established by this  
91 chapter, (ii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this  
92 title, or (iii) while earning the benefits permitted by § 51.1-138, may retire under the provisions of  
93 subsection A, B, or D of this section if he has not withdrawn his accumulated contributions prior to the  
94 effective date of his retirement or if he has five or more years of creditable service (a) as a member in  
95 the retirement system established by this chapter, (b) as a member in the retirement system established  
96 by Chapter 2.1 (§ 51.1-211 et seq.) of this title, or (c) while earning the benefits permitted by  
97 § 51.1-138, regardless of termination date, for which his employer has paid the contributions and such  
98 contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the  
99 member being in service shall not apply. ~~No member shall be entitled to the benefits of this subsection~~  
100 ~~if his employer certifies that his service was terminated because of dishonesty, malfeasance, or~~  
101 ~~misfeasance in office. The certification may be appealed to the Board.~~

102 Effective December 31, 2003, any member 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.), this  
104 chapter, or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements  
105 of this section, and §§ 51.1-138 and 51.1-216.

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

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

111 § 51.1-216. Service retirement generally.

112 A. Normal retirement.

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

120 Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is  
121 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 employee who is a 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 (§ 51.1-200 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 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.

#### B. Early retirement.

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

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 employee who is a member in service and 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 (§ 51.1-200 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 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.

#### C. Deferred retirement for members terminating service.

1. Any employee commencing employment or reemployment on or after July 1, 2001, and any employee who makes the election provided in § 51.1-221, who terminates service from any position with membership in any retirement program administered by the Virginia Retirement System, may retire under the provisions of subdivision A 1 or B 1 if (i) he is otherwise eligible for such benefits, (ii) he has not withdrawn his accumulated contributions prior to the effective date of his retirement, and (iii) 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.

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

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

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

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

190 § 51.1-305. Service retirement generally.

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

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

199 B1. Mandatory retirement. - Any member who attains 70 years of age shall be retired 20 days after  
200 the convening of the next regular session of the General Assembly. However, if the mandatory  
201 retirement provisions of this subdivision would require a member of the State Corporation Commission  
202 to be retired before the end of his elected term and such retirement would occur during a session of the  
203 General Assembly in which the General Assembly is required, pursuant to § 12.1-6, to elect another  
204 member or members of the State Corporation Commission to serve either a regular term or a portion of  
205 a regular term, such member who otherwise would be subject to the mandatory retirement provisions of  
206 this subdivision shall be retired upon the first to occur of (i) the expiration of the term to which he was  
207 elected or (ii) 20 days after the commencing of the regular session of the General Assembly that  
208 immediately follows the date such member attains 72 years of age. The provisions of this subsection  
209 shall apply only to those members who are elected or appointed to an original or subsequent term  
210 commencing after July 1, 1993.

211 C. Deferred retirement for members terminating service. - Any member who terminates service after  
212 five or more years of creditable service may retire under the provisions of subsection A or B of this  
213 section, if he has not withdrawn his accumulated contributions prior to the effective date of his  
214 retirement or if he has five or more years of creditable service for which his employer has paid the  
215 contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any  
216 requirements as to the member being in service shall not apply. ~~No member shall be entitled to the~~  
217 ~~benefits of this subsection if his appointing authority certifies that his service was terminated because of~~  
218 ~~dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.~~

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

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