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SENATE BILL NO. 232

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact §§ 51.1-124.3, 51.1-153, and 51.1-301 of the Code of Virginia, relating to the early and normal retirement ages for members of the Virginia Retirement System.

Patron—Watkins

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3, 51.1-153, and 51.1-301 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"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.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, 1980, 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.

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

"Early retirement age" means a member's "early retirement age" for an old-age insurance benefit, as defined and provided under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended).

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

"Employer" means the Commonwealth in the case of a state employee, the local public school board

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59 in the case of a teacher, or the political subdivision participating in the Retirement System.

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

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

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

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

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

69 "Normal retirement date" means a member's sixty-fifth birthday. *However, for any member first*
70 *commencing employment in a covered position on or after July 1, 2010, such member's normal*
71 *retirement date shall be the date that the member attains his "retirement age" as defined under the*
72 *Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended).*

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

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

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

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

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

85 "Retirement System" means the Virginia Retirement System.

86 "Service" means service as an employee.

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

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

104 § 51.1-153. Service retirement.

105 A. Normal retirement. - Any member in service at his normal retirement date with five or more years
106 of creditable service may retire at any time upon written notification to the Board setting forth the date
107 the retirement is to become effective. Any member in service who was denied membership prior to July
108 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his
109 normal retirement date and the requirement of having five or more years of service shall not apply.

110 B. Early retirement. - 1. Any member in service who has attained his fifty-fifth birthday with five or
111 more years of creditable service may retire prior to his normal retirement date upon written notification
112 to the Board setting forth the date the retirement is to become effective. *However, for any member in*
113 *service who first commenced employment in a covered position on or after July 1, 2010, such member*
114 *shall not be allowed to retire prior to his normal retirement date pursuant to this subdivision unless the*
115 *member has attained his early retirement age and is credited with at least five years of creditable*
116 *service.*

117 2. Any state employee, teacher, or employee of a political subdivision who is a member of the
118 retirement system may retire prior to his normal retirement date after attaining age fifty and thirty years
119 of creditable service, upon written notification to the Board setting forth the date the retirement is to
120 become effective. *However, for any employee, teacher, or employee of a political subdivision who (i) is*

a member of the retirement system, and (ii) first commenced employment in a covered position on or after July 1, 2010, such member shall not be allowed to retire prior to his normal retirement date pursuant to this subdivision unless the member has attained his early retirement age and is credited with at least 30 years of creditable service.

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. *Any member who first commenced employment in a covered position on or after July 1, 2010, shall not be allowed to retire pursuant to this subdivision.*

E. 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 ninety days prior to the filing of the notice of retirement.

F. 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.

§ 51.1-301. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Appointing authority" means the General Assembly or the Governor.

"Creditable service" means prior service plus membership service, as further defined in and modified by § 51.1-303, for which credit is allowable under this chapter.

"Judge" means any justice or judge of a court of record of the Commonwealth, any member of the State Corporation Commission or Virginia Workers' Compensation Commission, any judge of a district court of the Commonwealth other than a substitute judge of such district court, and any executive secretary of the Supreme Court assuming such position between December 1, 1975, and January 31, 1976.

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

"Previous systems" means the systems established under the provisions of Chapters 2 (§ 51-3 et seq.) and 2.2 (§ 51-29.8 et seq.) of Title 51, and, in the case of judges of regional juvenile and domestic relations courts, the Virginia Retirement System.

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

"Retirement system" means the Judicial Retirement System.

"Service" means service as a judge.