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HOUSE BILL NO. 1796

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on January 24, 2011)

(Patron Prior to Substitute—Delegate Tata)

A BILL to amend and reenact §§ 51.1-142.2, 51.1-513.2, 51.1-513.3, 51.1-1116, 51.1-1117, 51.1-1128, 51.1-1134, 51.1-1401, and 51.1-1405 of the Code of Virginia, relating to technical changes to plans administered by the Virginia Retirement System.

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-142.2, 51.1-513.2, 51.1-513.3, 51.1-1116, 51.1-1117, 51.1-1128, 51.1-1134, 51.1-1401, and 51.1-1405 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-142.2. Prior service or membership credit for certain members; service credit for accumulated sick leave.

Certain members may purchase credit for service as provided in this section.

A. Except as provided in subdivisions 1 and 2, in order to receive credit for the service made available in subsection B, a member in service shall be required to make a payment for each year, or portion thereof, to be credited at the time of purchase, equal to five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing the service made available in subsection B through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation.

1. (For applicability date, see Editor's note) A person who becomes a member on or after July 1, 2010, shall pay an amount equal to a rate approximating the normal cost for the retirement program under which the member is covered, with such rate for each retirement program to be determined by the Board, and reviewed by the Board no less than every six years. However, if the member does not purchase, or enter into a purchase of service contract for the service made available in subsection B within one year from his first date of hire or within one year of the final day of any leave of absence under subdivision B 2, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost.

2. If a member other than a member described in subdivision 1 does not purchase, or enter into a purchase of service contract for, the service made available in subsection B within three years from his first date of hire or within three years of the final day of any leave of absence under subdivision B 2, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost.

3. When a member requests credit for a portion of the period, the most recent portion shall be credited. Payment may be made in a lump sum at the time of purchase or by an additional payroll deduction. ~~Only one~~ Any number of additional deduction ~~shall~~ deductions may be permitted at any time. Should ~~the~~ any additional deduction be terminated prior to purchasing the entire period that might otherwise be credited, the member shall be credited with the number of additional full or partial months of service for which full payment is made. If ~~the~~ any additional deduction is continued beyond the point at which the entire period has been purchased, the member shall be credited with no more than the entire period that might otherwise have been credited and the excess amount deducted shall be refunded to the member.

Any employer may elect to pay an equivalent amount in lieu of all member contributions required of its employees for the purpose of service credit pursuant to this section. These contributions shall not be considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.) of this title, nor shall they be considered to be salary for purposes of this chapter.

B. 1. Any member in service may purchase prior service credit for (i) active duty military service in the armed forces of the United States, provided that the discharge from a period of active duty status with the armed forces was not dishonorable, (ii) creditable service of another state or of a political subdivision or public school system of this or another state, as certified by such state, political subdivision or public school system, (iii) creditable service of a political subdivision of this state not credited to the member under an agreement as provided for in § 51.1-143.1, as certified by such political subdivision, (iv) civilian service of the United States, (v) creditable service at a private institution of higher education if the private institution is merged with a public institution of higher education and graduates of the private institution are then issued new degrees from the public institution, or (vi) any period of time when the member was employed by a participating employer and not otherwise eligible to participate in the retirement system because the member was not an employee as defined in § 51.1-124.3.

60 For purposes of this subsection "active duty military service" means full-time service of at least 180
61 consecutive days in the United States Army, Navy, Air Force, Marines, Coast Guard, or reserve
62 components thereof.

63 2. Any member (i) granted a leave of absence for educational purposes may purchase service credit
64 for such leave of absence; or (ii) granted any unpaid leave of absence due to the birth or adoption of a
65 child may purchase up to one year of service credit per occurrence of leave.

66 C. Any member in service may purchase service credit for creditable service lost from ceasing to be
67 a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated
68 contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall
69 be five percent of his creditable compensation or five percent of his average final compensation,
70 whichever is greater, unless the member in service is purchasing such service through a pre-tax or
71 post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall
72 be five percent of his creditable compensation. If the member purchases or enters into a contract to
73 purchase such service within three years of the date he became eligible to purchase the service, then the
74 service may be purchased in a lump sum at the time of purchase or through an additional payroll
75 deduction. Any purchase of such service made at a time later than such period shall be made in a lump
76 sum at the time of purchase.

77 D. Any member in service may purchase service credit for accumulated sick leave on his effective
78 date of retirement based upon such sums as the employer may provide as payment for any unused sick
79 leave balances. The cost of service credit purchased under this subsection shall be the actuarial
80 equivalent cost of such service.

81 E. In any case where member and employer contributions, as required under this chapter, were not
82 made because of an error in the payroll, personnel, or other classification system of an employer
83 participating in the retirement system, service that has not been credited because of such error may be
84 purchased on the following basis:

85 1. The most recent three years of service shall be purchased, using applicable member and employer
86 contribution rates and creditable compensation in effect for such period, in a manner and cost prescribed
87 by the Board; and

88 2. All other years of service the employer shall purchase at an actuarial equivalent cost.

89 F. The service credit to be credited to a member under this section shall be calculated at the ratio of
90 one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased,
91 except for part-time service purchased under clause (vi) of subdivision B 1 which shall be calculated at
92 the ratio of one month of service credit for each 173 hours of service as certified by the employer and
93 as purchased by the member. Up to a maximum of four years of service credit may be purchased for
94 each of clauses (i) through (vi) of subdivision B 1 and clause (i) and (ii) of subdivision B 2. In addition,
95 a member in service may purchase service credit for every year or portion thereof for service lost from
96 cessation of membership as described in subsection C.

97 Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service
98 credit made available under this section may not be purchased if, before being purchased or at the time
99 of such purchase pursuant to this section, the service to be purchased is service that is included in the
100 calculation of any retirement allowance received or to be received by the member from this or another
101 retirement system.

102 G. Any member may receive credit at no cost for service rendered in the armed forces of the United
103 States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from
104 a period of active duty with the armed forces was not dishonorable, (iii) the member has not withdrawn
105 his accumulated contributions, (iv) the member is not disabled or killed while on leave without pay
106 while performing active duty military service in the armed forces of the United States, and (v) the
107 member reenters service in a covered position within one year after discharge from the armed forces. In
108 order to receive such service, the member must complete such forms and other requirements as are
109 required by the Board and the retirement system.

110 § 51.1-513.2. Long-term care coverage program.

111 A. The Board shall, with the mutual consent of the Board and the Director of the Department of
112 Human Resource Management, assume responsibility for the maintain and administer a long-term care
113 coverage program, established pursuant to § 2.2-1208, for any state employees employee working an
114 average of at least 20 hours per week, and for any other person who has five or more years of
115 creditable service with any retirement plan administered by the Virginia Retirement System. The
116 long-term care coverage program may also extend coverage to eligible family members of such state
117 employee or other person. The Board is authorized to contract for and purchase insurance coverage or to
118 use other actuarially sound funding necessary to effectuate this provision. Participation in the long-term
119 care coverage program shall be voluntary, subject to policies and procedures adopted by the Board.

120 B. Any person eligible to participate in the long-term care coverage program pursuant to § 51.1-513.3
121 will not be eligible for this plan.

C. Notwithstanding the provisions of subsection A, the Board may self-insure long-term care benefits provided under § 51.1-513.2 or 51.1-513.3 in accordance with the standards set forth in § 51.1-124.30.

§ 51.1-513.3. Long-term care insurance program for employees of local governments, local officers, and teachers.

A. The Board shall, ~~with the mutual consent of the Board and the Director of the Department of Human Resource Management, assume responsibility for the~~ *maintain and administer a plan or plans, hereinafter "plan" or "plans," established pursuant to § 2.2-1207, for providing long-term care coverage for employees of local governments, local officers, and teachers. The plan or plans may also extend coverage to eligible family members of such employees of local governments, local officers, or teachers.* The plan or plans may, but need not, be rated separately from any plan developed to provide long-term care coverage for state employees under § 51.1-513.2. Participation in such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's respective governing body, or by the local school board in the case of teachers, and (iii) subject to policies and procedures adopted by the Board.

B. For the purposes of this section:

"Employees of local governments" shall include all officers and employees, *working an average of at least 20 hours per week*, of the governing body of any county, city, or town, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from § 15.2-1300, 15.2-1303, or similar statutes, provided that the officers and employees of a social services department; welfare board; mental health, mental retardation and substance abuse services board; or library board of a county, city, or town shall be deemed to be employees of local government.

"Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees, *working an average of at least 20 hours per week*, of any of the preceding local officers.

"Teacher" means any employee of a county, city, or other local public school board *working an average of at least 20 hours per week*.

§ 51.1-1116. Cessation of disability benefits.

If not sooner terminated due to the end of the period of disability coverage as provided in subsection E of § 51.1-1110 or subsection E F of § 51.1-1112, disability benefits shall cease to be paid to a participating employee upon the first to occur of the following:

1. The date of death of the participating employee;
2. (i) The participating employee's normal retirement date if the employee is a member of the retirement system or (ii) the date the employee attains age sixty-five if the employee is not a member of the retirement system; or
3. The effective date of the participating full-time employee's service retirement under any provision of this title.

§ 51.1-1117. Service retirement of participating full-time employees receiving disability benefits.

A. ~~Upon the normal retirement date of a~~ *A participating full-time employee receiving disability benefits who is a vested member of the retirement system, the employee shall be eligible for normal service retirement under subsection A of § 51.1-153 any provision of this title for which the employee is otherwise eligible.* Such employee shall be authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165 for which the employee is otherwise eligible.

B. The retirement allowance for a participating full-time employee taking normal retirement pursuant to this section shall be determined as provided in subdivision A 1 of § 51.1-155, provided that the employee's average final compensation of any participating full-time employee taking a service retirement under any provision of this title shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the program actuary and approved by the Board, from the date of the commencement of the disability to the date of retirement.

C. The creditable service of a participating full-time employee taking ~~normal service~~ retirement pursuant to this section shall include periods during which the employee received disability benefits.

§ 51.1-1128. Service retirement of participating full-time employees receiving supplemental disability benefits.

A. ~~Upon the last to occur of (i) the normal retirement date of a participating full-time employee receiving disability benefits who is a vested member of the retirement system or (ii) the date of cessation of benefits payable under the Act, the~~ *a participating full-time employee shall be eligible for normal may take service retirement under subsection A of § 51.1-153 any provision of this title for which the employee is otherwise eligible.* Such employee shall be authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165.

183 B. The retirement allowance for a participating full-time employee taking normal retirement pursuant
184 to this section shall be determined as provided in subdivision A 1 of § 51.1-155, provided that the
185 employee's average final compensation shall be equal to his creditable compensation on the date of the
186 commencement of the disability increased by an amount recommended by the actuary of the Virginia
187 Retirement System, and approved by the Board, from the date of the commencement of the disability to
188 the date of retirement.

189 C. The creditable service of a participating full-time employee taking ~~normal~~ service retirement
190 pursuant to this section shall include periods during which the employee received supplemental disability
191 benefits.

192 § 51.1-1134. Optional insurance during disability absences.

193 Participating full-time employees may continue coverage under the optional insurance for themselves
194 and their spouses and minor dependents pursuant to §§ 51.1-512 and ~~51.1-513~~ at their own expense
195 during periods of disability.

196 § 51.1-1401. Health insurance credits for retired teachers.

197 A. A teacher, as defined in § 51.1-124.3, retired under the Virginia Retirement System, and any
198 employee retired under a defined contribution plan pursuant to § 51.1-126.6, who rendered at least 15
199 years of total creditable service under the System or plan shall receive a health insurance credit to his
200 monthly retirement allowance, which shall be applied to reduce the retired member's health insurance
201 premium cost. The amount of each monthly health insurance credit payable under this section shall be
202 \$4 for each full year of the retired member's creditable service; however, each former member whose
203 retirement was for disability *or any employee participant pursuant to § 51.1-126.6 receiving long-term*
204 *disability* shall receive a monthly health insurance credit of \$4 multiplied by the smaller of (i) twice the
205 amount of his creditable service or (ii) the amount of creditable service he would have completed at age
206 60 if he had remained in service to that age. Eligibility for the credit shall be determined in a manner
207 prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant
208 to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section
209 on the effective date of his retirement.

210 B. Those retired employees who purchase an alternative personal health insurance policy from a
211 carrier or organization of their own choosing shall be eligible to receive a credit in the amount specified
212 in subsection D. Eligibility for the credit and payment of the credit shall be determined in a manner
213 prescribed by the Virginia Retirement System.

214 C. The credit shall be in (i) the amount provided in subsection A or (ii) the amount of premium paid
215 for the personal health insurance policy, whichever is less.

216 D. Any person included in the membership of a retirement system provided by Chapter 1
217 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) of this
218 title who (i) rendered at least 15 years of total creditable service as a teacher as defined in § 51.1-124.3
219 and (ii) after terminating service as a teacher, was employed by a local government that does not elect
220 to provide a health insurance credit under § 51.1-1402, shall be eligible for the credit provided by
221 subsection A and subsection B if provided by the school division from which the service described in
222 clause (i) was rendered, provided that the retired employee is participating in a health insurance plan.
223 The Commonwealth and local school division, if appropriate, shall be charged with the credit as
224 provided for in subsection E. In such case, the health insurance credit shall be determined based upon
225 the amount of state service or service as a teacher, whichever is greater.

226 E. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all
227 credits provided under this section, (ii) reflect the cost of such credits in the applicable employer
228 contribution rate pursuant to §§ 51.1-145, 51.1-204, and 51.1-304, and (iii) prescribe such terms and
229 conditions as are necessary to carry out the provisions of this section. The costs associated with the
230 administration of the health insurance program provided for in this section shall be recovered from the
231 health insurance credit trust fund.

232 § 51.1-1405. Participation in the state retiree health benefits program.

233 A. As used in this section, unless the context requires a different meaning:

234 "Involuntarily separated" means separated from state service as the result of any dismissal, requested
235 resignation, or failure to obtain reappointment, excluding a separation resulting from a conviction for a
236 felony or crime involving moral turpitude or dishonesty or a separation related to the job performance or
237 misconduct of the state employee.

238 "Retiree health benefits program" or "program" means the plan for providing health insurance
239 coverage for retired state employees provided pursuant to subsection E of § 2.2-2818.

240 "State employee" means the same as that term is defined in § 2.2-2818.

241 "State retiree" means a state employee retired under the Virginia Retirement System, State Police
242 Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or
243 any retirement system authorized pursuant to § 51.1-126 *or 51.1-126.5*, who is eligible to receive a
244 monthly retirement annuity from that retirement system.

245 B. A state retiree shall be eligible to participate in the retiree health benefits program only if he
246 makes an election to participate in the program within thirty-one days following the date of termination
247 of employment with the Commonwealth. A retired state employee who fails to elect to participate in the
248 state health plan within thirty-one days of the effective date of retirement, or who, once having elected
249 to participate, discontinues participation, is barred from participating in the state health plan thereafter.

250 C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the
251 retiree health benefits program and is receiving monthly retirement annuity payments may elect, by
252 notifying the Virginia Retirement System and the Department of Human Resource Management before
253 September 1, 1999, to cease receiving monthly retirement annuity payments until reapplying for such
254 benefits at a later date and to continue participation in the retiree health benefits program.