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HOUSE BILL NO. 2104

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact §§ 51.1-153 and 51.1-155 of the Code of Virginia, relating to the Virginia Retirement System; retirement age and service requirements for certain individuals.

Patrons—Bulova, BaCote, Brink, Herring, Plum, Rust, Torian and Watts; Senators: Herring, Marsden and Petersen

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-153 and 51.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 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~~ 60 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.

However, a person who becomes a member on or after July 1, 2010, under this chapter, *except for a person who is employed as a firefighter, emergency medical technician, or law-enforcement officer as those terms are defined in § 15.2-1512.2*, shall be allowed to retire under this subdivision prior to his normal retirement date only if the person is in service and has attained his sixtieth birthday with five or more years of creditable service, and the benefit for such person shall be calculated in accordance with the provisions of subdivision A 3 of § 51.1-155.

2. Subject to the provisions of subdivision 3, 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~~ 50 and ~~thirty~~ 30 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.

3. A person who becomes a member on or after July 1, 2010, *except for a person who is employed as a firefighter, emergency medical technician, or law-enforcement officer as those terms are defined in § 15.2-1512.2*, as a state employee, teacher, or employee of a political subdivision may retire prior to his normal retirement date after the sum of his age and years of creditable service equals 90, 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~~ 10 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. A person who becomes a member on or after July 1, 2010, shall not be allowed to retire pursuant to this subsection.

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~~ 90 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.

§ 51.1-155. Service retirement allowance.

INTRODUCED

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58 A. Retirement allowance. - A member shall receive an annual retirement allowance, payable for life,
59 as follows:

60 1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation
61 multiplied by the amount of his creditable service.

62 2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall
63 be determined in the same manner as for normal retirement with creditable service and average final
64 compensation being determined as of the date of actual retirement. If the member has less than 30 years
65 of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial
66 equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal
67 retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable
68 service. The provisions of this subdivision shall apply to teachers and state employees. These provisions
69 shall also apply to employees of any political subdivision that participates in the retirement system if the
70 political subdivision makes the election provided in subdivision 3.

71 3. Early retirement; applicable to employees of certain political subdivisions and persons who
72 become a member on or after July 1, 2010, *except for persons who is employed as a firefighter,*
73 *emergency medical technician, or law-enforcement officer, as those terms are defined in § 15.2-1512.2.* -
74 The allowance shall be determined in the same manner as for normal retirement with creditable service
75 and average final compensation being determined as of the date of actual retirement. If the creditable
76 service of the member equals 30 or more years but the sum of his age at retirement plus his creditable
77 service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an
78 actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i)
79 his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then
80 creditable service would have been equal to 90 or more had he remained in service until such date. If
81 the member has less than 30 years of creditable service, the retirement allowance shall be reduced for
82 the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or
83 (ii) the first date on which he would have completed a total of at least 30 years of creditable service and
84 his then creditable service plus his then attained age would have been equal to 90 or more.

85 The provisions of this subdivision shall apply to the employees of any political subdivision that
86 participates in the retirement system and any other employees as provided by law. The participating
87 political subdivision may, however, elect to provide its employees with the early retirement allowance
88 set forth in subdivision 2. No such election shall be made for a person who becomes a member on or
89 after July 1, 2010, *except for a person who is employed as a firefighter, emergency medical technician,*
90 *or law-enforcement officer, as those terms are defined in § 15.2-1512.2.* Any election pursuant to this
91 subdivision shall be set forth in a legally adopted resolution.

92 4. Additional allowance. - In addition to the allowance payable under subdivisions 1, 2, and 3, a
93 member shall receive an additional allowance which shall be the actuarial equivalent, for his attained
94 age at the time of retirement, of the excess of his accumulated contributions transferred from the
95 abolished system to the retirement system, including interest credited at the rate of two percent
96 compounded annually since the transfer to the date of retirement, over the annual amounts equal to four
97 percent of his annual creditable compensation at the date of abolishment for a period equal to his period
98 of membership in the abolished system.

99 5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the
100 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated
101 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's
102 accumulated contributions, including accrued interest.

103 B. Beneficiary serving in position covered by this title.

104 1. Except as provided in subdivisions 2 and 3, if a beneficiary of a service retirement allowance
105 under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3
106 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement
107 purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1
108 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed.
109 Any member who retires and later returns to covered employment shall not be entitled to select a
110 different retirement option for a subsequent retirement.

111 2. Active members of the General Assembly who are eligible to receive a retirement allowance under
112 this title, excluding their service as a member of the General Assembly, shall be eligible to receive a
113 retirement allowance based on their creditable service and average final compensation for service other
114 than as a member of the General Assembly. Such members of the General Assembly shall continue to
115 be reported as any other members of the retirement system. Upon ceasing to serve in the General
116 Assembly, members of the General Assembly receiving a retirement allowance based on their creditable
117 service and average final compensation for service other than as a member of the General Assembly
118 shall have their retirement allowance recomputed prospectively to include their service as a member of
119 the General Assembly. Active members of the General Assembly shall be prohibited from receiving a

120 service retirement allowance under this title based solely on their service as a member of the General
121 Assembly.

122 3. (Expires July 1, 2015) Any person receiving a service retirement allowance under this chapter,
123 who is hired as a local school board instructional or administrative employee required to be licensed by
124 the Board of Education, may elect to continue to receive the retirement allowance during such
125 employment, under the following conditions:

126 (a) The person has been receiving such retirement allowance for a certain period of time preceding
127 his employment as provided by law;

128 (b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program
129 from any local school division within the Commonwealth; and

130 (c) At the time the person is employed, the position to which he is assigned is among those
131 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the
132 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant
133 to subdivision 9 of § 22.1-79.

134 If the person elects to continue to receive the retirement allowance during the period of such
135 employment, then his service performed and compensation received during such period of time will not
136 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.