11101447D

1 **SENATE BILL NO. 1046**
2 Offered January 12, 2011
3 Prefiled January 11, 2011
4 *A BILL to amend and reenact § 51.1-155 of the Code of Virginia, relating to payment of retirement*
5 *allowances to persons who are employed in certain otherwise retirement-covered positions.*
6 ——————
  Patron—Barker
7 ——————
8 Referred to Committee on Finance
9 ——————

10 **Be it enacted by the General Assembly of Virginia:**
11 **1. That § 51.1-155 of the Code of Virginia is amended and reenacted as follows:**
12 § 51.1-155. Service retirement allowance.
13 A. Retirement allowance. - A member shall receive an annual retirement allowance, payable for life,
14 as follows:
15 1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation
16 multiplied by the amount of his creditable service.
17 2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall
18 be determined in the same manner as for normal retirement with creditable service and average final
19 compensation being determined as of the date of actual retirement. If the member has less than 30 years
20 of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial
21 equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal
22 retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable
23 service. The provisions of this subdivision shall apply to teachers and state employees. These provisions
24 shall also apply to employees of any political subdivision that participates in the retirement system if the
25 political subdivision makes the election provided in subdivision 3.
26 3. Early retirement; applicable to employees of certain political subdivisions and any person who
27 becomes a member on or after July 1, 2010. - The allowance shall be determined in the same manner as
28 for normal retirement with creditable service and average final compensation being determined as of the
29 date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of
30 his age at retirement plus his creditable service at retirement is less than 90, the amount of the
31 retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual
32 retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the
33 sum of his then attained age plus his then creditable service would have been equal to 90 or more had
34 he remained in service until such date. If the member has less than 30 years of creditable service, the
35 retirement allowance shall be reduced for the period by which the actual retirement date precedes the
36 earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total
37 of at least 30 years of creditable service and his then creditable service plus his then attained age would
38 have been equal to 90 or more.
39 The provisions of this subdivision shall apply to the employees of any political subdivision that
40 participates in the retirement system and any other employees as provided by law. The participating
41 political subdivision may, however, elect to provide its employees with the early retirement allowance
42 set forth in subdivision 2. No such election shall be made for a person who becomes a member on or
43 after July 1, 2010. Any election pursuant to this subdivision shall be set forth in a legally adopted
44 resolution.
45 4. Additional allowance. - In addition to the allowance payable under subdivisions 1, 2, and 3, a
46 member shall receive an additional allowance which shall be the actuarial equivalent, for his attained
47 age at the time of retirement, of the excess of his accumulated contributions transferred from the
48 abolished system to the retirement system, including interest credited at the rate of two percent
49 compounded annually since the transfer to the date of retirement, over the annual amounts equal to four
50 percent of his annual creditable compensation at the date of abolishment for a period equal to his period
51 of membership in the abolished system.
52 5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the
53 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated
54 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's
55 accumulated contributions, including accrued interest.
56 B. Beneficiary serving in position covered by this title.
57 1. Except as provided in subdivisions 2 ~~and~~, 3, *and 4*, if a beneficiary of a service retirement
58 allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et

59 seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for
60 retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.),
61 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so
62 employed. Any member who retires and later returns to covered employment shall not be entitled to
63 select a different retirement option for a subsequent retirement.
64   2. Active members of the General Assembly who are eligible to receive a retirement allowance under
65 this title, excluding their service as a member of the General Assembly, shall be eligible to receive a
66 retirement allowance based on their creditable service and average final compensation for service other
67 than as a member of the General Assembly. Such members of the General Assembly shall continue to
68 be reported as any other members of the retirement system. Upon ceasing to serve in the General
69 Assembly, members of the General Assembly receiving a retirement allowance based on their creditable
70 service and average final compensation for service other than as a member of the General Assembly
71 shall have their retirement allowance recomputed prospectively to include their service as a member of
72 the General Assembly. Active members of the General Assembly shall be prohibited from receiving a
73 service retirement allowance under this title based solely on their service as a member of the General
74 Assembly.
75   3. (Expires July 1, 2015) Any person receiving a service retirement allowance under this chapter,
76 who is hired as a local school board instructional or administrative employee required to be licensed by
77 the Board of Education, may elect to continue to receive the retirement allowance during such
78 employment, under the following conditions:
79   (a) The person has been receiving such retirement allowance for a certain period of time preceding
80 his employment as provided by law;
81   (b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program
82 from any local school division within the Commonwealth; and
83   (c) At the time the person is employed, the position to which he is assigned is among those
84 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the
85 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant
86 to subdivision 9 of § 22.1-79.
87   If the person elects to continue to receive the retirement allowance during the period of such
88 employment, then his service performed and compensation received during such period of time will not
89 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.
90   *4. Any person receiving a service retirement allowance pursuant to the benefits permitted under*
91 *§ 51.1-138, Chapter 2 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) who is hired as a local*
92 *school board security officer or security personnel may elect to continue to receive the retirement*
93 *allowance during such employment, under the following conditions:*
94   *a. The person has attained age 50 and the person's effective date of retirement is at least one full*
95 *calendar year (or such longer period of time as adopted by the Board in its policies and procedures)*
96 *prior to the person commencing employment as a local school board security officer or security*
97 *personnel;*
98   *b. The person is not receiving a retirement benefit pursuant to an early retirement incentive program*
99 *from any "employer" as defined in § 51.1-124.3;*
100   *c. The person did not participate in any incentive program established under the second or third*
101 *enactment of Chapters 152 and 811 of the Acts of Assembly of 1995; and*
102   *d. The hiring school division agrees to and shall pay to the Virginia Retirement System, during such*
103 *person's employment as a local school board security officer or security personnel, the employer share*
104 *of the retirement funding contribution that would otherwise be due if the person were a covered*
105 *employee.*
106   *If the person elects to continue to receive the retirement allowance during the period of such*
107 *employment, then his service performed and compensation received during such period of time will not*
108 *increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.*
109 **2. That the Board of the Virginia Retirement System and the Joint Legislative Audit and Review**
110 **Commission shall jointly determine the period of time preceding employment, required pursuant**
111 **to subdivision B 4 a of § 51.1-155 of the Code of Virginia, that (i) will result in there being no**
112 **negative fiscal impact to the Commonwealth pursuant to the provisions of this act and (ii) shall be**
113 **consistent with the federal tax qualification of the relevant retirement plans administered by the**
114 **Virginia Retirement System. Such determination shall be made in consultation with the actuary of**
115 **the Virginia Retirement System, the actuary of the Joint Legislative Audit and Review**
116 **Commission, and the Chairmen of the Senate Committee on Finance and the House Committee on**
117 **Appropriations. The Board shall adopt such jointly determined period of time, and no other, for**
118 **purposes of providing for the persons described in subdivision B 4 of § 51.1-155 of the Code of**
119 **Virginia to continue to receive their retirement allowances while employed as provided in such**
120 **subdivision. Only if such persons have been retired for such jointly determined period of time**

121   **shall such persons be permitted to elect to continue to receive their retirement allowances while**
122   **employed as provided in such subdivision, unless the general appropriation act in effect at the**
123   **relevant time provides a required period of retirement that is less than such jointly determined**
124   **period of time. The Board of the Virginia Retirement System shall promulgate all reasonable and**
125   **necessary policies and procedures to carry out the provisions of this act.**