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HOUSE BILL NO. 1129

Offered January 12, 2012

A *BILL to amend and reenact §§ 51.1-124.3, 51.1-142.2, 51.1-144, 51.1-155, 51.1-157, and 51.1-166 of the Code of Virginia, relating to Virginia Retirement System; defined benefit plan.*

Patrons—Howell, W.J. and Jones

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3, 51.1-142.2, 51.1-144, 51.1-155, 51.1-157, and 51.1-166 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"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.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~~ 60 highest consecutive months of creditable service or during the entire period of his creditable service if less than ~~36~~ 60 months. However, for any member who is not a person who becomes a member on or after July 1, 2010, *this calculated amount of "average final compensation" shall be compared with the average annual creditable compensation of a member during his 60 36 highest consecutive months of creditable service or during the entire period of his creditable service if less than 60 36 months that occur prior to January 1, 2013, and the higher amount shall be used.*

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.

"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 person who
70 becomes a member on or after July 1, 2010, under this chapter his normal retirement date shall be the
71 date that the member attains his "retirement age" as defined under the Social Security Act (42 U.S.C.
72 § 416 et seq., as now or hereafter amended).

73 "Person who becomes a member on or after July 1, 2010," means a person who is not a member of
74 a retirement plan administered by the Virginia Retirement System the first time he is hired on or after
75 July 1, 2010, in a covered position. Subsequent separation from such position and subsequent
76 employment in a covered position shall not alter the status of a person who becomes a member on or
77 after July 1, 2010.

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

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

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

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

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

90 "Retirement plan administered by the Virginia Retirement System" means a retirement plan
91 established under this title administered by the Virginia Retirement System, or by an agency that has
92 been delegated administrative responsibility by the Virginia Retirement System, but such term shall
93 exclude any plan established under Chapter 6 (§ 51.1-600 et seq.) or Chapter 6.1 (§ 58.1-607 et seq.) of
94 this title.

95 "Retirement System" means the Virginia Retirement System.

96 "Service" means service as an employee.

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

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

114 § 51.1-142.2. Prior service or membership credit for certain members; service credit for accumulated
115 sick leave.

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

117 A. Except as provided in subdivisions 1 and 2, in order to receive credit for the service made
118 available in subsection B, a member in service shall be required to make a payment for each year, or
119 portion thereof, to be credited at the time of purchase, equal to five percent of his creditable
120 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. *Effective July 1, 2013, the cost shall increase from five percent to six percent.*

1. 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. Any number of additional deductions may be permitted at any time. Should 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 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.

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

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

C. Any member in service may purchase service credit for creditable service lost from ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing such service 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. *Effective July 1, 2013, the cost shall increase from five percent to six percent.* If the member purchases or enters into a contract to purchase such service within three years of the date he became eligible to purchase the service, then the service may be purchased in a lump sum at the time of purchase or through an additional payroll deduction. Any purchase of such service made at a time later than such period shall be made in a lump sum at the time of purchase.

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

182 equivalent cost of such service.

183 E. Any member receiving work-related disability benefits under Article 4 (§ 51.1-1119 et seq.) of
184 Chapter 11 may, in a manner prescribed by the Board, purchase service credit for service that is not
185 reported to the retirement system by the member's employer while the member is receiving short-term
186 disability benefits. Notwithstanding any other provision in this section, the cost to purchase such service
187 shall be five percent of the member's creditable compensation. *Effective July 1, 2013, the cost shall*
188 *increase from five percent to six percent.*

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

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

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

197 G. The service credit to be credited to a member under this section shall be calculated at the ratio of
198 one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased,
199 except for part-time service purchased under clause (vi) of subdivision B 1 which shall be calculated at
200 the ratio of one month of service credit for each 173 hours of service as certified by the employer and
201 as purchased by the member. Up to a maximum of four years of service credit may be purchased for
202 each of clauses (i) through (vi) of subdivision B 1 and clauses (i) and (ii) of subdivision B 2. In
203 addition, a member in service may purchase service credit for every year or portion thereof for service
204 lost from cessation of membership as described in subsection C.

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

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

218 § 51.1-144. Member contributions.

219 A. 1. Each member shall contribute five percent of his creditable compensation for each pay period
220 for which he receives compensation.

221 2. *The contribution rate by any (i) state employee, as defined in § 51.1-124.3, who is a member*
222 *covered by the defined benefit plan under Chapter 1 (§ 51.1-124.1 et seq.), (ii) member of the State*
223 *Police Officers' Retirement System under Chapter 2 (§ 51.1-200 et seq.), or (iii) member of the Virginia*
224 *Law Officers' Retirement System under Chapter 2.1 (§ 51.1-211 et seq.), shall increase by one-half*
225 *percent effective July 1, 2012, and an additional one-half percent on July 1, 2013, so that effective July*
226 *1, 2013, the total contribution rate of such member will equal six percent of his creditable compensation*
227 *for each pay period for which he receives compensation.*

228 The employer shall deduct the contribution payable by the member. Every employee accepting
229 employment shall be deemed to consent and agree to any deductions from his compensation required by
230 this chapter.

231 B. In determining the creditable compensation of a member in a payroll period, the Board may
232 consider the rate of compensation payable to the member on the date of entry or removal of his name
233 from the payroll as having been received throughout the month if service for the month is creditable. If
234 service for the month is not creditable, the Board may consider any compensation payable during the
235 month as not being creditable compensation.

236 C. The minimum compensation provided by law for any member shall be reduced by the deduction
237 required by this section. Except for any benefits provided by this chapter, payment of compensation
238 minus the deductions shall be a full and complete discharge of all claims for services rendered by the
239 member during the period covered by the payment.

240 D. No deduction shall be made from any member's compensation if the employer's contribution is in
241 default.

242 E. The Board may modify the method of collecting the contributions of members so that the
243 employer may retain the amounts deducted from members' salaries and have a corresponding amount

deducted from state funds otherwise payable to the employer.

F. 1. Except as provided in subdivision 2, any employer may elect to pay an equivalent amount in lieu of all member contributions required of its employees. Such payments shall be credited to the members' contribution account. 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.

2. A person who becomes a member on or after July 1, 2010, shall be required to pay member contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code in the amount of ~~five percent of creditable compensation determined under subsection A~~ if the person is (i) a member covered by the defined benefit plan established under this chapter, (ii) a member of the State Police Officers' Retirement System under Chapter 2 (§ 51.1-200 et seq.), (iii) a member of the Virginia Law Officers' Retirement System under Chapter 2.1 (§ 51.1-211 et seq.), ~~or~~ (iv) ~~a member of the Judicial Retirement System under Chapter 3 (§ 51.1-300 et seq.), or~~ (v) earning the benefits permitted by §51.1-138.

Each county, city, town, local public school board, or other local employer may elect to pay an equivalent amount in lieu of the member contributions required of its employees described in this subdivision. The county, city, town, local public school board, or other local employer may pay, in ~~whole increments of half percentages, up to five percent of creditable compensation the amount determined under subsection A~~ otherwise required of such employees, provided that the employer pays the same percentage of creditable compensation for all such employees, and is paying all member contributions required under this section for all of its other member employees not described in this subdivision. Any portion of the ~~five percent of creditable compensation amount determined under subsection A~~ required of a person who becomes a member on or after July 1, 2010, that is not paid by the county, city, town, local public school board, or other local employer, shall be paid by such person.

No employer other than a county, city, town, local public school board, or other local employer shall be allowed to elect to pay any amount of the member contributions required of a person who becomes a member on or after July 1, 2010.

3. Notwithstanding any other provision of this section or other law, only those employers who were paying member contributions as of February 1, 2010, may pay member contributions. The provisions of this subdivision shall not apply to a county, city, town, local public school board, or other local employer.

G. Subject to the provisions of subsection F, any employer whose employees are paying member contributions to the retirement system on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code may phase-in the payment of the member contributions on behalf of its employees upon notification to the Board of the employer's intent to make such payments. The Board shall approve the period of time by which the phase-in shall be completed not to exceed six years from the commencement of the phased-in payments.

H. Any employer that, by resolution of its governing body, elects to provide retirement coverage for its employees in accordance with § 51.1-130 on or after September 1, 1998, shall allow its employees to pay member contributions to the retirement system on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code in lieu of paying the member contribution on behalf of its employees in accordance with the provisions of subsection F.

I. The Board may develop procedures to effect the transfer of member contributions paid by employers on or after July 1, 1980, and accrued interest on those contributions, to the member contribution account of the member, if such contributions have been previously deposited into the retirement allowance account of the employer.

§ 51.1-155. Service retirement allowance.

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

1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service. *Notwithstanding the foregoing, for a person who is not a member of a retirement system administered by the Virginia Retirement System the first time he is hired in a covered position on or after January 1, 2013, the allowance shall equal 1.60 percent of his average final compensation multiplied by the amount of his creditable service.*

2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions

305 shall also apply to employees of any political subdivision that participates in the retirement system if the
306 political subdivision makes the election provided in subdivision 3.

307 3. Early retirement; applicable to employees of certain political subdivisions and any person who
308 becomes a member on or after July 1, 2010. - The allowance shall be determined in the same manner as
309 for normal retirement with creditable service and average final compensation being determined as of the
310 date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of
311 his age at retirement plus his creditable service at retirement is less than 90, the amount of the
312 retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual
313 retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the
314 sum of his then attained age plus his then creditable service would have been equal to 90 or more had
315 he remained in service until such date. If the member has less than 30 years of creditable service, the
316 retirement allowance shall be reduced for the period by which the actual retirement date precedes the
317 earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total
318 of at least 30 years of creditable service and his then creditable service plus his then attained age would
319 have been equal to 90 or more.

320 The provisions of this subdivision shall apply to the employees of any political subdivision that
321 participates in the retirement system and any other employees as provided by law. The participating
322 political subdivision may, however, elect to provide its employees with the early retirement allowance
323 set forth in subdivision 2. No such election shall be made for a person who becomes a member on or
324 after July 1, 2010. Any election pursuant to this subdivision shall be set forth in a legally adopted
325 resolution.

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

333 5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the
334 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated
335 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's
336 accumulated contributions, including accrued interest.

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

338 1. Except as provided in subdivisions 2 and 3, if a beneficiary of a service retirement allowance
339 under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3
340 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement
341 purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1
342 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed.
343 Any member who retires and later returns to covered employment shall not be entitled to select a
344 different retirement option for a subsequent retirement.

345 2. Active members of the General Assembly who are eligible to receive a retirement allowance under
346 this title, excluding their service as a member of the General Assembly, shall be eligible to receive a
347 retirement allowance based on their creditable service and average final compensation for service other
348 than as a member of the General Assembly. Such members of the General Assembly shall continue to
349 be reported as any other members of the retirement system. Upon ceasing to serve in the General
350 Assembly, members of the General Assembly receiving a retirement allowance based on their creditable
351 service and average final compensation for service other than as a member of the General Assembly
352 shall have their retirement allowance recomputed prospectively to include their service as a member of
353 the General Assembly. Active members of the General Assembly shall be prohibited from receiving a
354 service retirement allowance under this title based solely on their service as a member of the General
355 Assembly.

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

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

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

364 (c) At the time the person is employed, the position to which he is assigned is among those
365 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the
366 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant

to subdivision 9 of § 22.1-79.

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

§ 51.1-157. Disability retirement allowance.

A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance during his lifetime and continued disability equal to 1.70 percent of his average final compensation multiplied by the smaller of (i) twice the amount of his creditable service or (ii) the amount of creditable service he would have completed at age sixty if he had remained in service to that age. *Notwithstanding the foregoing, for a person who is not a member of a retirement system administered by the Virginia Retirement System the first time he is hired in a covered position on or after January 1, 2013, the allowance shall equal 1.60 percent of his average final compensation multiplied by the smaller of (i) twice the amount of his creditable service or (ii) the amount of creditable service he would have completed at age sixty if he had remained in service to that age.* If a member has already attained age sixty, the amount of creditable service at his date of retirement shall be used.

For retirements between October 1, 1994, and December 31, 1998, any employee or local officer who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the disability retirement allowance payable under this section; provided that, for purposes of this additional retirement allowance, the term employee shall include only those employees of political subdivisions that have adopted a resolution providing for such an allowance under subsection B of § 51.1-130. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

B. Workers' compensation guarantee. - If a member retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the annual retirement allowance shall equal sixty-six and two-thirds percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal fifty percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A or under the provisions of this subsection.

C. Reduction of allowance. - Any allowance payable to a member who retires for disability from a cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of any payments under the provisions of the Act in effect on the date of retirement of the member and the excess of the allowance shall be paid to the member. When the time for compensation payments under the Act has elapsed, the member shall receive the full amount of the allowance payable during his lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

D. Special retirement allowance guarantee. - Any member retired from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals fifty percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal thirty-three and one-third percent of his average final compensation.

E. Determination of retirement allowance. - For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

§ 51.1-166. Post-retirement supplements generally.

A. In addition to the allowances payable under this chapter title, post-retirement supplements shall be payable to the recipients of such allowances. Supplements shall be subject to the same conditions of payment as are allowances.

B. The amounts of the post-retirement supplements shall be determined as percentages of the allowances supplemented hereby. The percentages shall be determined annually by reference to the increase in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor. The

percentages shall be based on monthly averages and shall be the difference between (i) the average for the calendar year just ended and (ii) the average for the most recent calendar year used in the determination of the post-retirement supplements currently being paid. The annual increase, if any, in the CPI-U shall be considered only to the extent of the first ~~three~~ two percent plus one-half of the next ~~four~~ two percent of any additional increase, or a maximum increase in the post-retirement supplement of five ~~three~~ percent in any given year. However, for a person who becomes a member on or after July 1, 2010, the annual increase in the Consumer Price Index shall be considered only to the extent of the first two percent plus one-half of the next eight percent of any additional increase, or a maximum increase in the post-retirement supplement of six percent in any given year, as of January 1, 2013, (i) is the recipient of an allowance under this title or (ii) would otherwise be eligible for an unreduced allowance within five years, the applicable annual increase, if any, in the CPI-U shall be considered only to the extent of the first three percent plus one-half of the next four percent of any additional increase, or a maximum increase in the post-retirement supplement of five percent in any given year. If the difference in the percentages determined above is zero or less, the post-retirement supplements shall either not commence or shall continue unchanged until such time as an annual determination results in a difference in the percentages that are greater than zero.

Contribution rates for all employers shall include an amount equal to 100 percent of the total annual amount necessary to fund all post-retirement supplements. All contribution rates shall be computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board.

C. There shall be no change in the amount of any post-retirement supplement between determination dates except as necessary to reflect changes in the amount of the allowance being supplemented. The post-retirement supplement shall remain a constant percentage of the respective allowance being supplemented. No new post-retirement supplement shall be commenced except as of a determination date. The post-retirement supplement determined as of any determination dates shall become effective at the beginning of the fiscal year and shall be in lieu of any post-retirement supplements previously payable, which shall thereupon be terminated.

D. 1. Any recipient of an allowance which initially commenced on or prior to January 1, 1990, shall be entitled to post-retirement supplements effective July 1, 1991.

2. A person who is the recipient of an allowance pursuant to § 2.2-3204, subsection Q of Item 469 of Chapter 890 of the Acts of Assembly of 2011, or § 51.1-155.1, 51.1-155.2, 51.1-157, 51.1-162, 51.1-207, 51.1-218, 51.1-308, 51.1-1117, or 51.1-1128 must receive that allowance for one full calendar year before being entitled to post-retirement supplements.

3. A person who, as of January 1, 2013, (i) is the recipient of an allowance under this title or (ii) would otherwise be eligible for an unreduced allowance under the applicable chapter within five years, including a person described in clause (ii) who commences an unreduced allowance on or after January 1, 2013, must receive that allowance for one full calendar year before being entitled to post-retirement supplements.

4. Any other person must receive that allowance for one full calendar year after the date he would otherwise have been eligible for an unreduced allowance under the applicable chapter before being entitled to post-retirement supplements.