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SENATE BILL NO. 171

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 29, 2012)

(Patron Prior to Substitute—Senator Petersen)

A BILL to amend and reenact §§ 51.1-153 and 51.1-155 of the Code of Virginia, relating to the Virginia Retirement System; benefits for certain local employees.

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 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 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 and thirty 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, 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.

4. Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of subdivisions 1 and 3 and subdivision A 3 of § 5.1-155, any 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 not be considered a person who becomes a member on or after July 1, 2010. Such resolution shall be irrevocable.

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.

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. 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 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.

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.

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

69 3. Early retirement; applicable to employees of certain political subdivisions and any person who
70 becomes a member on or after July 1, 2010. - The allowance shall be determined in the same manner as
71 for normal retirement with creditable service and average final compensation being determined as of the
72 date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of
73 his age at retirement plus his creditable service at retirement is less than 90, the amount of the
74 retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual
75 retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the
76 sum of his then attained age plus his then creditable service would have been equal to 90 or more had
77 he remained in service until such date. If the member has less than 30 years of creditable service, the
78 retirement allowance shall be reduced for the period by which the actual retirement date precedes the
79 earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total
80 of at least 30 years of creditable service and his then creditable service plus his then attained age would
81 have been equal to 90 or more.

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

88 *Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to*
89 *the Board that, for purposes of this subdivision and subdivisions B 1 and B 3 of § 51.1-153, any person*
90 *who is employed as a firefighter, emergency medical technician, or law-enforcement officer as those*
91 *terms are defined in § 15.2-1512.2 shall not be considered a person who becomes a member on or after*
92 *July 1, 2010. Such resolution shall be irrevocable.*

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

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

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

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

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

122 Assembly.

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

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

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

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

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