

12105702D

## SENATE BILL NO. 497

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patron Prior to Substitute—Senator Watkins)

A *BILL to amend and reenact § 51.1-144 of the Code of Virginia, relating to the Virginia Retirement System.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.1-144 of the Code of Virginia is amended and reenacted as follows:**

§ 51.1-144. Member contributions.

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

The employer shall deduct the contribution payable by the member. Every employee accepting employment shall be deemed to consent and agree to any deductions from his compensation required by this chapter. No deduction shall be taken from the compensation of a member after his normal retirement date if the member elects not to contribute.

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

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

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

E. The Board may modify the method of collecting the contributions of members so that the 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 *any or all* member contributions required of its employees, *in whole percentages, up to five percent of the creditable compensation.* 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. *Any portion of the five percent of creditable compensation required of an employee that is not paid by his employer shall be paid by the employee on a salary reduction basis in accordance with § 414 (h) of the Internal Revenue Code.*

2. A person who becomes a member on or after July 1, 2010, *whose employer is not a county, city, town, local school board, or other local employer,* 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 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~~ Any 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 percentages, up to five percent of the creditable compensation 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 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 *differentiate between the amount of member contributions it elects to pay for an employee who is not a person who becomes a member on or after July 1, 2010, as opposed to an employee who is a person who becomes a member on or after July 1, 2010, provided that (i) all employees within each of such two groups are treated the same, and (ii) no employee who is not a person who becomes a member on*

60 *or after July 1, 2010, is required to pay any member contributions unless all employees who become*  
61 *members on or after July 1, 2010, are required to pay member contributions in the amount of five*  
62 *percent of creditable compensation.*

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

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

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

76 H. Any employer that, by resolution of its governing body, elects to provide retirement coverage for  
77 its employees in accordance with § 51.1-130 on or after September 1, 1998, shall allow its employees to  
78 pay member contributions to the retirement system on a salary reduction basis in accordance with  
79 § 414(h) of the Internal Revenue Code in lieu of paying the member contribution on behalf of its  
80 employees in accordance with the provisions of subsection F.

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