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SENATE BILL NO. 497

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 9, 2012)

(Patron Prior to Substitute—Senator Watkins)

A BILL to amend and reenact § 51.1-144 of the Code of Virginia, relating to Virginia Retirement System employee contributions; local employees; school board employees.

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~~ subdivisions 2, 3, and 4, 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 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.), (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 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.

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. A person who became a member before July 1, 2010, who is an employee of a county, city, town, or other local employer other than a local public school board 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. No county, city, town, or other local employer shall be allowed to elect to pay any amount of member contributions required pursuant to this

60 subdivision.

61 4. A member who is an employee of a local public school board, regardless of whether the member
62 is a person who became a member on or after July 1, 2010, shall be required to pay member
63 contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code in
64 the amount of five percent of creditable compensation as follows: (i) any member who commences or
65 recommences employment on or after July 1, 2012, shall be required to contribute five percent of his
66 creditable compensation upon commencing or recommencing employment and (ii) members in service on
67 June 30, 2012, shall be required to contribute five percent of their creditable compensation no later
68 than July 1, 2016. Such member described in subdivision (ii) shall contribute a minimum of an
69 additional one percent of his creditable compensation beginning on each July 1 of 2012, 2013, 2014,
70 2015, and 2016, or until the member's contribution equals five percent of creditable compensation, but
71 the local public school board employer may elect to require members to contribute more than an
72 additional one percent each year, in whole percentages. In no case shall a member be required to
73 contribute more than five percent of his creditable compensation for each pay period for which he
74 receives compensation. No local public school board employer shall be allowed to elect to pay any
75 amount of member contributions except to pay the difference between five percent and the employee
76 contribution during the phase-in period described in this subsection for a member who was in service
77 on June 30, 2012.

78 3. 5. Notwithstanding any other provision of this section or other law, only those employers who
79 were paying member contributions as of February 1, 2010, may pay member contributions. The
80 provisions of this subdivision shall not apply to a county, city, town, local public school board, or other
81 local employer.

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

88 H. Any employer that, by resolution of its governing body, elects to provide retirement coverage for
89 its employees in accordance with § 51.1-130 on or after September 1, 1998, shall allow its employees to
90 pay member contributions to the retirement system on a salary reduction basis in accordance with
91 § 414(h) of the Internal Revenue Code in lieu of paying the member contribution on behalf of its
92 employees in accordance with the provisions of subsection F.

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

97 2. That any county, city, town, local public school board, or other local employer that currently
98 pays member contributions to the Virginia Retirement System that the member will be responsible
99 for paying pursuant to the provisions of this act shall provide an increase in total creditable
100 compensation, effective July 1, 2012, to each affected member to offset the cost of the member
101 contributions. Such increase in total creditable compensation shall be equal to the difference
102 between five percent of an employee's total creditable compensation and the percentage of the
103 employee contribution paid by the local employer on January 1, 2012. If a local public school
104 board elects to phase in the employer contributions pursuant to subdivision F 4 of § 51.1-144 of
105 the Code of Virginia, the increase in total creditable compensation may also be phased in at the
106 same rate.