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SENATE JOINT RESOLUTION NO. 5

Offered January 11, 2012

Prefiled December 19, 2011

Proposing an amendment to Section 11 of Article X of the Constitution of Virginia, relating to contributions to defined benefit retirement plans maintained for state employees and certain local employees.

Patron—Howell

Referred to Committee on Privileges and Elections

RESOLVED by the Senate, the House of Delegates concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 11 of Article X of the Constitution of Virginia as follows:

ARTICLE X

TAXATION AND FINANCE

Section 11. Governmental employees retirement system.

(a) The General Assembly shall maintain a retirement system for state employees and employees of participating political subdivisions and school divisions. The funds of the retirement system shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the members and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the retirement system. Such trust funds shall be invested as authorized by law. Retirement system benefits shall be funded using methods which are consistent with generally accepted actuarial principles *and reflective of current benefits provided under law.*

(b) (1) *Contributions to defined benefit retirement plans established by the General Assembly and maintained for state employees and employees of participating political subdivisions and school divisions shall be paid in strict adherence with the contribution rates and times for the payment of such contributions, as recommended by the Board of Trustees of the Virginia Retirement System or by any successor body or agency to the Board, based upon contribution rates determined by its official actuary. The Board or any successor shall recommend contribution rates that are reasonably anticipated to ensure the payment of retirement benefits, refunds, and administrative expenses that are provided under law. The Board or any successor shall transmit the contribution requirements in writing to the Governor and the General Assembly and participating political subdivisions and school divisions, as applicable, within the time frames required by law.*

(2) *Notwithstanding any other provision of this subsection, the General Assembly may set contribution rates that are not in strict adherence to the contribution rates recommended by the Board or any successor for any or all of the Commonwealth's fiscal years beginning on or after July 1, 2014, but not including any fiscal year beginning on or after July 1, 2020.*

No deferral of contributions shall be deemed to have occurred under this subsection for (i) the fiscal year beginning on July 1, 2014, or July 1, 2015, so long as the contribution rate set for the applicable defined benefit retirement plan for the fiscal year is at least equal to seventy-five percent of the contribution rate recommended by the Board or any successor; (ii) the fiscal year beginning on July 1, 2016, or July 1, 2017, so long as the contribution rate set for the applicable defined benefit retirement plan for the fiscal year is at least equal to eighty-four percent of the contribution rate recommended by the Board or any successor; or (iii) the fiscal year beginning on July 1, 2018, or July 1, 2019, so long as the contribution rate set for the applicable defined benefit retirement plan for the fiscal year is at least equal to ninety-two percent of the contribution rate recommended by the Board or any successor.

The General Assembly by a recorded affirmative vote of a majority of the members voting in each house may set contribution rates less than the applicable minimum percentage herein. However, to the extent that the General Assembly sets a contribution rate that is less than the applicable minimum percentage herein, then the difference between the amount reasonably estimated to be contributed using such minimum percentage and the amount reasonably estimated to be contributed using the contribution rate set by the General Assembly shall be deemed a deferral of contributions that shall be repaid under

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59 subsection (f). The vote shall be a separate vote and the question to be voted on shall be whether to
60 provide for the deferral of contributions for the fiscal year or years, and the question shall include the
61 total amount of contributions reasonably estimated to be deferred for the fiscal year or years.

62 (c) (1) For purposes of such contribution rates for such defined benefit retirement plans, the
63 amortization period for the payment of retirement obligations relating to such plans shall be the
64 amortization period as set by the General Assembly, which period shall not exceed thirty years.

65 However, if generally accepted actuarial principles or generally accepted accounting principles
66 establish an amortization period for the payment of retirement obligations under defined benefit
67 retirement plans that is shorter than the amortization period established by the General Assembly, then
68 for purposes of such contribution rates the Board or any successor shall use the longest amortization
69 period that (i) is in accordance with generally accepted actuarial principles or generally accepted
70 accounting principles and (ii) does not exceed the amortization period established by the General
71 Assembly.

72 (2) All other factors or variables generally used in setting such contribution rates including but not
73 limited to inflation rates, life expectancies, and forecasts of increases in compensation shall be
74 determined by the Board or any successor in consultation with its official actuary.

75 The actuarial rate of return on the investment of such contributions that is assumed by the Board or
76 any successor shall be consistent with the assumed actuarial rates of return on the investment of defined
77 benefit retirement contributions currently being used by all other states having general obligation bonds
78 currently graded with the highest grade given by all nationally recognized credit rating agencies and
79 having defined benefit retirement plans covering state employees. The actuarial rate of return on
80 investment assumed by the Board or any successor shall be a rate of return that would have been
81 reasonably determined by a professional actuary under the same prevailing conditions.

82 (d) Notwithstanding the provisions of subdivision (1) of subsection (b), the General Assembly may
83 provide for the deferral of all or any portion of the required contributions to any or all of such defined
84 benefit retirement plans for any fiscal year beginning on or after July 1, 2020, in which the General
85 Assembly has appropriated the maximum amount allowed for transfer from the Revenue Stabilization
86 Fund pursuant to Article X, Section 8, of this Constitution. Any such deferral shall require a recorded
87 affirmative vote of a majority of the members voting in each house. The vote by the General Assembly
88 shall be a separate vote and the question to be voted on shall be whether to provide for the deferral of
89 contributions for such fiscal year, and the question shall include the total amount of contributions
90 reasonably estimated to be deferred for the fiscal year.

91 (e) Retirement contributions deferred in 2010 as described under paragraph 1 5 of Item 469 of
92 Chapter 874 of the Acts of Assembly of 2010 shall be repaid pursuant to subsection (f), except that the
93 total amount of contributions deferred shall be repaid no later than June 30, 2022.

94 (f) All contributions deferred pursuant to subsection (b) or (d) shall be repaid with interest to the
95 applicable defined benefit retirement plan within the ten-year period immediately following the last day
96 of the fiscal year in which the deferral occurred. The amount repaid each fiscal year shall not be less
97 than one-tenth of the total contributions deferred in the year of deferral until the total amount of
98 contributions deferred in the year of deferral have been repaid. The annual interest rate shall be equal
99 to the current actuarially calculated long-term rate of return for the defined benefit retirement plans
100 described in subdivision (1) of subsection (b).

101 (g) Nothing in this section shall be construed or interpreted to prohibit the funding of contributions
102 to defined benefit retirement plans established by the General Assembly at contribution rates that are
103 greater than the contribution rates recommended by the Board or any successor.

104 (h) The retirement system shall be subject to restrictions, terms, and conditions as may be prescribed
105 by the General Assembly.