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HOUSE BILL NO. 1625

Offered January 9, 2013

Prefiled January 7, 2013

A BILL to amend and reenact § 51.1-124.9 of the Code of Virginia, relating to the collection of overpayments made from the Virginia Retirement System.

Patron—Farrell (By Request)

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-124.9 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-124.9. Changes or errors in records resulting in erroneous payments; employer liability.

A. 1. If any change or error in records results in any member or beneficiary receiving more or less than he would have been entitled to receive from the Retirement System had the records been correct, the Board shall, subject to the provisions of ~~subsection~~ *subsections B and C*, correct the error and as far as practicable adjust the payments so that the actuarial equivalent of the correct benefit shall be paid.

2. If a member has been overpaid through no fault of his and could not reasonably have been expected to detect the error the Board may waive any repayment which it believes would cause hardship.

3. Upon determination that any person has erroneously been included in membership in the Retirement System, accumulated contributions resulting from the erroneous membership shall be refunded.

B. *If (i) the change or error in records results in a member or beneficiary receiving more than he would have been entitled to receive from the Retirement System had the records been correct; (ii) the proximate cause of such change or error in records was a computational error made by the Retirement System or one of its employees, subsidiaries, affiliates, agents, or contractors; and (iii) the member or beneficiary could not reasonably have been expected to detect the error or overpayment, then the Board shall correct the records as soon as practicable in order that the amount legally due is paid to the member or beneficiary on a going forward basis, but the Board shall not collect from the member or beneficiary any prior overpayment the proximate cause of which was the computational error described in clause (ii). This prohibition includes collecting the overpayment of a retirement allowance from the insurance proceeds payable to the retiree's beneficiaries pursuant to subsection B of § 51.1-510.*

~~B.~~ C. The Board is authorized to recover any overpayments, from an employer found to be responsible for such overpayments, to a member or beneficiary (i) whose average final compensation exceeds the limitation in § 51.1-152, (ii) who receives in-service distributions because the member or beneficiary is rehired by the employer without either a bona fide break in service, as determined by the Board, following retirement, or the break in service required under subdivision B 3 (a) of § 51.1-155, or (iii) who the Board determines was in service as an employee covered for retirement purposes as prohibited by subdivision B 1 of § 51.1-155.

INTRODUCED

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