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HOUSE BILL NO. 2168

Offered January 9, 2013

A BILL to amend and reenact § 51.1-169 of the Code of Virginia, relating to the Virginia Retirement System; hybrid retirement program.

Patrons—Howell, W.J., Morris and Villanueva

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. That § 51.1-169 of the Code of Virginia is amended and reenacted as follows:****§ 51.1-169. Hybrid retirement program.**

A. For purposes of this section, "hybrid retirement program" or "program" means a hybrid retirement program covering any employee in a position covered for retirement purposes under the provisions of Chapter 1 (§ 51.1-124.1 et seq.) for retirement purposes other than the Virginia Retirement System defined benefit retirement plan established under Chapter 1 (§ 51.1-124.1 et seq.). Except as provided in § 51.1-302, persons who are participants in, or eligible to be participants in, the retirement plans under the provisions of Chapter 2 (§ 51.1-200 et seq.), Chapter 2.1 (§ 51.1-211 et seq.), Chapter 3 (§ 51.1-300 et seq.), the optional retirement plans established under §§ 51.1-126.1, 51.1-126.3, 51.1-126.4, and 51.1-126.7, or a person eligible to earn the benefits permitted by § 51.1-138 shall not be eligible to participate in the hybrid retirement program.

The Board shall maintain the hybrid retirement program established by this section, and any employer is authorized to make contributions under such program for the benefit of its employees participating in such program. Every person who is otherwise eligible to participate in the program but is not a member of a retirement plan administered by the Virginia Retirement System the first time he is hired on or after January 1, 2014, in a covered position, shall participate in the hybrid retirement program established by this section.

A person who participates in the otherwise applicable defined benefit retirement plan established by this title and administered by the Virginia Retirement System under this chapter may make an irrevocable election to participate in the hybrid retirement program maintained under this section. Such election shall be exercised no later than April 30, 2014. If an election is not made by April 30, 2014, such employee shall be deemed to have elected not to participate in the hybrid retirement program and shall continue to participate in his current retirement plan.

B. 1. The employer shall make contributions to the defined benefit component of the program in accordance with § 51.1-145.

2. The employer shall make a mandatory contribution to the defined contribution component of the program on behalf of an employee participating in the program in the amount of one percent of creditable compensation. In addition, the employer shall make a matching contribution on behalf of the employee based on the employee's voluntary contributions under the defined contribution component of the program to the deferred compensation plan established under § 51.1-602, up to a maximum of ~~2.5~~ 2.8 percent of creditable compensation for the payroll period, as follows: (i) 100 percent of the first one percent of creditable compensation contributed by the employee to the defined contribution component of the program under subdivision C 2 for the payroll period, and (ii) ~~50~~ 60 percent of the next three percent of creditable compensation contributed by the employee to the defined contribution component of the program under subdivision C 2 for the payroll period. The matching contribution by the employer shall be made to the appropriate cash match plan established for the employee under § 51.1-608.

3. The total amount contributed by the employer under subdivision 2 shall vest to the employee's benefit according to the following schedule:

- a. Upon completion of two years of continuous participation in the program, 50 percent.
- b. Upon completion of three years of continuous participation in the program, 75 percent.
- c. Upon completion of four years of continuous participation in the program, 100 percent.

If an employee terminates employment with an employer prior to achieving 100 percent vesting, contributions made by an employer on behalf of the employee under subdivision 2 that are not vested, shall be forfeited. The Board may establish a forfeiture account and may specify the uses of the forfeiture account.

4. An employee may direct the investment of contributions made by an employer under subdivision B 2.

5. No loans or hardship distributions shall be available from contributions made by an employer under subdivision B 2.

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59 C. 1. An employee participating in the hybrid retirement program maintained under this section shall,
60 pursuant to procedures established by the Board, make mandatory contributions on a salary reduction
61 basis in accordance with § 414(h) of the Internal Revenue Code (i) to the defined benefit component of
62 the program in the amount of four percent of creditable compensation in lieu of the amount described in
63 subsection A of § 51.1-144 and (ii) to the defined contribution component of the program in the amount
64 of one percent of creditable compensation.

65 2. An employee participating in the hybrid retirement program may also make voluntary
66 contributions to the defined contribution component of the program of up to four percent of creditable
67 compensation or the limit on elective deferrals pursuant to § 457(b) of the Internal Revenue Code,
68 whichever is less. The contribution by the employee shall be made to the appropriate deferred
69 compensation plan established by the employee under § 51.1-602.

70 3. If an employee's voluntary contributions under subdivision C 2 are less than four percent of
71 creditable compensation, the contribution will increase by one-half of one percent, beginning on January
72 1, 2017, and every three years thereafter, until the employee's voluntary contributions under subdivision
73 C 2 reach four percent of creditable compensation. The increase will be effective beginning with the
74 first pay period that begins in such calendar year unless the employee elects not to increase the
75 voluntary contribution in a manner prescribed by the Board.

76 4. No loans or hardship distributions shall be available from contributions made by an employee
77 under this subsection.

78 D. 1. The amount of the service retirement allowance under the defined benefit component of the
79 program shall be governed by § 51.1-155, except that the allowance shall equal one percent of a
80 member's average final compensation multiplied by the amount of his creditable service while in the
81 program. For judges who are participating in the hybrid retirement program, creditable service shall be
82 determined as provided in § 51.1-303.

83 2. No member shall retire for disability under the defined benefit component of the program.

84 3. In all other respects, administration of the defined benefit component of the program shall be
85 governed by the provisions of Chapter 1 (§ 51.1-124.1 et seq.).

86 E. With respect to any employee who elects, pursuant to subsection A, to participate in the otherwise
87 applicable defined benefit retirement plan established by this title and administered by the Virginia
88 Retirement System, the employer shall collect and pay all employee and employer contributions to the
89 Virginia Retirement System for retirement and group life insurance in accordance with the provisions of
90 Chapter 1 (§ 51.1-124.1 et seq.) for such employee.

91 F. 1. The Board shall develop policies and procedures for administering the hybrid retirement
92 program it maintains, including the establishment of guidelines for employee elections and deferrals
93 under the program.

94 2. No employee who is an active member in the hybrid retirement program maintained under this
95 section shall also be an active member of any other optional retirement plan maintained under the
96 provisions of Chapter 1 (§ 51.1-124.1 et seq.).

97 3. If a member of the hybrid retirement program maintained under this section is at any time in
98 service as an employee in a position covered for retirement purposes under the provisions of Chapter 1
99 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.), his
100 benefit payments under the hybrid retirement program maintained under this section shall be suspended
101 while so employed; provided, however, reemployment shall have no effect on a payment under the
102 defined contribution component of the program if the benefit is being paid in an annuity form under an
103 annuity contract purchased with the member's account balance.

104 4. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 on any employer
105 for administering and overseeing the hybrid retirement program maintained under this section shall be
106 charged for each employee participating in such program and shall be for costs incurred by the Virginia
107 Retirement System that are directly related to the administration and oversight of such program.

108 5. The creditable compensation for any employee on whose behalf employee or employer
109 contributions are made into the hybrid retirement program shall not exceed the limit on compensation as
110 adjusted by the Commissioner of the Internal Revenue Service pursuant to the transition provisions
111 applicable to eligible participants under state and local governmental plans under § 401(a)(17) of the
112 Internal Revenue Code as amended in 1993 and as contained in § 13212(d)(3) of the Omnibus Budget
113 Reconciliation Act of 1993 (P.L. 103-66).

114 6. The Board may contract with private corporations or institutions, subject to the standards set forth
115 in § 51.1-124.30, to provide investment products as well as any other goods and services related to the
116 administration of the hybrid retirement program. The Virginia Retirement System is hereby authorized to
117 perform related services, including but not limited to, providing consolidated billing, individual and
118 collective recordkeeping and accountings, and asset purchase, control, and safekeeping.