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**HOUSE BILL NO. 2173**

Offered January 9, 2013

*A BILL to amend and reenact § 51.1-155 of the Code of Virginia, relating to the Virginia Retirement System; payment of retirement allowances to retired law-enforcement officers who are hired as school security officers.*

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 Patron—Lewis
 

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Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:****1. That § 51.1-155 of the Code of Virginia is amended and reenacted as follows:****§ 51.1-155. Service retirement allowance.**

A. Retirement allowance. - A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i) is a person who becomes a member on or after July 1, 2010, or (ii) does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his average final compensation multiplied by the amount of his creditable service performed or purchased on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the amount of all other creditable service.

2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3.

3. Early retirement; applicable to employees of certain political subdivisions, any person who becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of creditable service as of January 1, 2013. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to 90 or more had he remained in service until such date. If the member has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 90 or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system and any other employees as provided by law. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2. No such election shall be made for a person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of this subdivision and subdivisions B 1 and B 3 of § 51.1-153, any person who is employed as a firefighter, emergency medical technician, or law-enforcement officer as those terms are defined in § 15.2-1512.2 shall not be considered a person who becomes a member on or after July 1, 2010. Such resolution shall be irrevocable.

4. Additional allowance. - In addition to the allowance payable under subdivisions 1, 2, and 3, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained

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59 age at the time of retirement, of the excess of his accumulated contributions transferred from the  
60 abolished system to the retirement system, including interest credited at the rate of two percent  
61 compounded annually since the transfer to the date of retirement, over the annual amounts equal to four  
62 percent of his annual creditable compensation at the date of abolishment for a period equal to his period  
63 of membership in the abolished system.

64 5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the  
65 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated  
66 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's  
67 accumulated contributions, including accrued interest.

68 B. Beneficiary serving in position covered by this title.

69 1. Except as provided in subdivisions 2 ~~and~~, 3, and 4, if a beneficiary of a service retirement  
70 allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et  
71 seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for  
72 retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.),  
73 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so  
74 employed. Any member who retires and later returns to covered employment shall not be entitled to  
75 select a different retirement option for a subsequent retirement.

76 2. Active members of the General Assembly who are eligible to receive a retirement allowance under  
77 this title, excluding their service as a member of the General Assembly, shall be eligible to receive a  
78 retirement allowance based on their creditable service and average final compensation for service other  
79 than as a member of the General Assembly. Such members of the General Assembly shall continue to  
80 be reported as any other members of the retirement system. Upon ceasing to serve in the General  
81 Assembly, members of the General Assembly receiving a retirement allowance based on their creditable  
82 service and average final compensation for service other than as a member of the General Assembly  
83 shall have their retirement allowance recomputed prospectively to include their service as a member of  
84 the General Assembly. Active members of the General Assembly shall be prohibited from receiving a  
85 service retirement allowance under this title based solely on their service as a member of the General  
86 Assembly.

87 3. (Expires July 1, 2015) Any person receiving a service retirement allowance under this chapter,  
88 who is hired as a local school board instructional or administrative employee required to be licensed by  
89 the Board of Education, may elect to continue to receive the retirement allowance during such  
90 employment, under the following conditions:

91 (a) The person has been receiving such retirement allowance for a certain period of time preceding  
92 his employment as provided by law;

93 (b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program  
94 from any local school division within the Commonwealth; and

95 (c) At the time the person is employed, the position to which he is assigned is among those  
96 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the  
97 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant  
98 to subdivision 9 of § 22.1-79.

99 If the person elects to continue to receive the retirement allowance during the period of such  
100 employment, then his service performed and compensation received during such period of time will not  
101 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

102 4. As used in this subdivision, "eligible retiree" means (i) any person receiving a service retirement  
103 allowance under the provisions of Chapter 2 (§ 51.1-200 et seq.) or Chapter 2.1 (§ 51.1-211 et seq.)  
104 or (ii) any sheriff or any person described in clause (i) of subsection B of § 51.1-138 (a) who is  
105 receiving a service retirement allowance under the provisions of § 51.1-138 or (b) who is receiving a  
106 service retirement allowance from the Virginia Retirement System that would be equal to the service  
107 retirement allowance under § 51.1-138 except for the fact that his employer has not elected to provide  
108 him with the service retirement allowance under § 51.1-138. Any eligible retiree who is hired as a local  
109 school board security officer or security personnel may elect to continue to receive the retirement  
110 allowance during such employment, under the following conditions:

111 a. The person has been receiving such retirement allowance for a certain period of time preceding  
112 his employment as established by the Virginia Retirement System;

113 b. The person is not receiving a retirement benefit pursuant to an early retirement incentive program  
114 from any local school division within the Commonwealth;

115 c. The person is not receiving a retirement benefit pursuant to an early retirement incentive program  
116 from any "employer" as defined in § 51.1-124.3; and

117 d. The person did not participate in any incentive program established under the second or third  
118 enactment of Chapters 152 and 811 of the Acts of Assembly of 1995.

119 If the person elects to continue to receive the retirement allowance during the period of such  
120 employment, then his service performed and compensation received during such period of time will not

**121** *increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.*