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HOUSE BILL NO. 2020

Offered January 14, 2015

Prefiled January 14, 2015

A BILL to amend and reenact §§ 22.1-23 and 51.1-155 of the Code of Virginia and to repeal the fifth enactment of Chapters 689 and 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, and the first enactment of Chapter 590 of the Acts of Assembly of 2009, and to repeal the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapters 607 and 608 of the Acts of Assembly of 2005 and the second enactment of Chapter 590 of the Acts of Assembly of 2009, relating to licensed local school board instructional or administrative employees; service retirement allowance.

Patrons—BaCote, Bell, Richard P., Bulova, Helsel, Herring, Hester, Hope, James, Joannou, Kory, Krupicka, Lindsey, Mason, McClellan, Peace, Simon, Spruill, Sullivan, Torian, Toscano, Tyler, Ward, Webert and Yost

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:**1. That §§ 22.1-23 and 51.1-155 of the Code of Virginia are amended and reenacted as follows:****§ 22.1-23. Duties in general.**

The Superintendent of Public Instruction shall:

1. Serve as secretary of the Board of Education;
2. Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;
3. Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;
4. (Expires July 1, 2015) At least annually, survey all local school divisions to identify critical shortages of teachers and administrative personnel by geographic area, by school division, or by subject matter, and report such critical shortages to each local school division and to the Virginia Retirement System;

5. *At least annually, prepare and furnish a report to the Virginia Retirement System that contains the names of (i) each school that has been identified as at-risk pursuant to criteria established by the Department of Education, including failure to achieve full accreditation and the percentage of students eligible for free or reduced lunch, and (ii) each at-risk school's respective school division;*

6. Along with the State Health Commissioner, work to combat childhood obesity and other chronic health conditions that affect school-age children; and

7. Perform such other duties as the Board of Education may prescribe.

§ 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

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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, subdivisions B 1 and B 3 and subsection D 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 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. 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 age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

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

B. Beneficiary serving in position covered by this title.

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

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

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

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

(b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program

119 from any local school division within the Commonwealth; and

120 (c) At the time the person is employed, the position to which he is assigned is (i) among those
121 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the
122 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant
123 to subdivision 9 of § 22.1-79 *or (ii) located in a school that has been identified as at-risk pursuant to*
124 *subdivision 5 of § 22.1-23.*

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

128 **2. That the fifth enactment of Chapters 689 and 700 of the Acts of Assembly of 2001, as amended**
129 **by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts**
130 **of Assembly of 2005, and the first enactment of Chapter 590 of the Acts of Assembly of 2009, is**
131 **repealed.**

132 **3. That the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by**
133 **Chapters 607 and 608 of the Acts of Assembly of 2005 and the second enactment of Chapter 590**
134 **of the Acts of Assembly of 2009, is repealed.**