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HOUSE BILL NO. 556

Offered January 8, 2020

Prefiled January 6, 2020

A BILL to amend and reenact §§ 51.1-306 and 51.1-308 of the Code of Virginia, relating to Judicial Retirement System; amount of retirement allowance.

Patron—Knight

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-306 and 51.1-308 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-306. 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 creditable service. Notwithstanding the foregoing, for a member appointed or elected to an original term commencing on or after 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.

~~In no case shall the~~ *The annual retirement allowance shall not exceed 78 percent of the average final compensation of the member, unless the member has been credited with five or more years of creditable service under another retirement plan pursuant to subsection B of § 51.1-303 for service performed prior to becoming a judge. In no case shall the annual retirement allowance payable to such member exceed 100 percent of his average final compensation.*

For retirements between October 1, 1994, and December 31, 1998, any judge who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the service retirement allowance payable under this section. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

2. Early retirement. — 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 not attained his sixtieth birthday or has less than 30 years of service, 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 or after his sixtieth birthday on which he would have completed a total of 30 years of creditable service.

~~In no case shall the~~ *The annual retirement allowance shall not exceed 78 percent of the average final compensation of the member, unless the member has been credited with five or more years of creditable service under another retirement plan pursuant to subsection B of § 51.1-303 for service performed prior to becoming a judge. In no case shall the annual retirement allowance payable to such member exceed 100 percent of his average final compensation.*

B. Normal and early retirement guarantees. — Any member who was a member of one of the previous systems immediately prior to July 1, 1970, and who would have been eligible for retirement benefits thereunder shall be guaranteed a minimum retirement allowance no less than that for which he would have qualified had he continued to participate therein.

C. Determination of retirement allowance. — For the purposes of subsection B of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

D. Beneficiary serving in position covered by this title. — If a beneficiary of a service retirement allowance under this chapter or under any of the previous systems 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 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.

§ 51.1-308. Disability retirement allowance.

A. Allowance payable on retirement. — Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance payable during his lifetime and continued disability equal to 1.70 percent of average final compensation when multiplied by the

59 smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would
60 have completed at age 60 if he had remained in service to that age. However, for a member appointed
61 or elected to an original term commencing on or after January 1, 2013, the applicable percentage shall
62 be 1.65 percent, and for a member participating in the hybrid retirement program described in
63 § 51.1-169, the applicable percentage shall be one percent. If a member has already attained age 60, the
64 amount of creditable service at his date of retirement shall be used.

65 ~~In no case shall the~~ *The annual retirement allowance shall not exceed 78 percent of the average final*
66 *compensation of the member, unless the member has been credited with five or more years of creditable*
67 *service under another retirement plan pursuant to subsection B of § 51.1-303 for service performed*
68 *prior to becoming a judge. In no case shall the annual retirement allowance payable to such member*
69 *exceed 100 percent of his average final compensation.*

70 B. Workers' compensation guarantee. — If a member retires for disability from a cause which is
71 compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the
72 annual retirement allowance shall, subject to the provisions of subsection D, equal 66 and two-thirds
73 percent of the member's average final compensation if the member does not qualify for primary social
74 security benefits under the provisions of the Social Security Act in effect on the date of his retirement.
75 If the member qualifies for primary social security benefits under the provisions of the Social Security
76 Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal
77 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement
78 allowance as determined under the provisions of subsection A of this section or under the provisions of
79 this subsection.

80 C. General disability retirement guarantee. — The disability retirement allowance payable to a
81 member who immediately prior to July 1, 1970, was a member of one of the previous systems shall be
82 at least an amount equal to the disability retirement allowance to which he would have been entitled
83 under the provisions of the previous system.

84 D. Determination of retirement allowance. — For the purposes of this section, the retirement
85 allowance shall be determined on the assumption that the retirement allowance is payable to the member
86 alone and that no optional retirement allowance is elected.

87 E. Reduction of allowance. — Any allowance payable to a member who retires for disability from a
88 cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of
89 any payments under the provisions of the Act in effect on the date of retirement of the member and the
90 excess of the allowance shall be paid to such member. When the time for compensation payments under
91 the Act has elapsed, the member shall receive the full amount of the allowance payable during his
92 lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation
93 Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his
94 allowance shall be computed as if he were receiving the compensation to which he would otherwise be
95 entitled.

96 F. Special retirement allowance guarantee. — Any member retired from a cause which is not
97 compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement
98 allowance during his lifetime and continued disability which equals 50 percent of the member's average
99 final compensation if the member does not qualify for primary social security benefits under the
100 provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for
101 primary social security benefits under the provisions of the Social Security Act in effect on the date of
102 retirement, the allowance payable from the retirement system shall equal 33 and one-third percent of his
103 average final compensation.