

2020 SPECIAL SESSION I

INTRODUCED

20200906D

SENATE BILL NO. 5119

Offered August 21, 2020

A *BILL to amend and reenact § 51.1-124.3 of the Code of Virginia, relating to Virginia Retirement System; average final compensation.*

Patron—Ruff

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-124.3 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-124.3. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1980, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his 60 highest consecutive months of creditable service or during the entire period of his creditable service if less than 60 months. However, for any member who (i) is not a person who becomes a member on or after July 1, 2010, and (ii) as of January 1, 2013, has at least 60 months of creditable service, "average final compensation" means the average annual creditable compensation of a member during his 36 highest consecutive months of creditable service. A participant in the hybrid retirement program described in § 51.1-169 shall be considered to be a person who becomes a member on or after July 1, 2010, for the purposes of this definition.

If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

In any month in which a member was furloughed because of a statewide emergency declared pursuant to § 44-146.17, the full amount of such member's compensation in the month immediately preceding the declaration of the statewide emergency shall be the amount used for purposes of calculating average final compensation.

"Beneficiary" means any person entitled to receive benefits under this chapter.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Creditable compensation" means the full compensation payable annually to an employee working full time in his covered position. For any state employee of a public institution of higher education or a teaching hospital affiliated with a public institution of higher education who is (i) compensated on a salaried basis and (ii) working full time in a covered position pursuant to a contract of employment for a period of at least nine months, creditable compensation means the full compensation payable over the term of any contract entered into between the employee and the employer, without regard to whether or not the term of the contract coincides with the normal scholastic year. However, if the contract is for more than one year, creditable compensation means that compensation paid for the current year of the contract.

Remuneration received by members of the General Assembly not otherwise retired under the provisions of this chapter pursuant to §§ 30-19.11 and 30-19.12 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly.

"Creditable service" means prior service as set forth in § 51.1-142.2 plus membership service for

INTRODUCED

SB5119

59 which credit is allowable.

60 "Employee" means any teacher, state employee, officer, or employee of a locality participating in the
61 Retirement System.

62 "Employer" means the Commonwealth in the case of a state employee, the local public school board
63 in the case of a teacher, or the political subdivision participating in the Retirement System.

64 "Joint Rules Committee" means those members of the House of Delegates and the Senate designated
65 by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet
66 with each other and to act jointly on behalf of the Committee on Rules for each house.

67 "Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth,
68 clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

69 "Medical Board" means the boards composed of physicians or other health care professionals as
70 provided by this chapter.

71 "Member" means any person included in the membership of the Retirement System.

72 "Membership service" means service as an employee rendered while a contributing member of the
73 Retirement System except as provided in this chapter.

74 "Normal retirement date" means a member's sixty-fifth birthday. However, for any (i) person who
75 becomes a member on or after July 1, 2010, or (ii) member who does not have at least 60 months of
76 creditable service as of January 1, 2013, under this chapter his normal retirement date shall be the date
77 that the member attains his "retirement age" as defined under the Social Security Act (42 U.S.C. § 416
78 et seq., as now or hereafter amended).

79 "Person who becomes a member on or after July 1, 2010," means a person who is not a member of
80 a retirement plan administered by the Virginia Retirement System the first time he is hired on or after
81 July 1, 2010, in a covered position. Subsequent separation from such position and subsequent
82 employment in a covered position shall not alter the status of a person who becomes a member on or
83 after July 1, 2010.

84 "Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or
85 unit of the Commonwealth, or any commission, public authority, or body corporate created by or under
86 an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the
87 commission, public authority, or body corporate.

88 "Primary social security benefit" means, with respect to any member, the primary insurance amount
89 to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions
90 of the federal Social Security Act as in effect at his date of retirement, under the provisions of this
91 chapter except as otherwise specifically provided.

92 "Prior service" means service rendered prior to becoming a member of the Retirement System.

93 "Purchase of service contract" means a contract entered into by the member and the Retirement
94 System for the purchase of service credit by the member as provided in § 51.1-142.2.

95 "Retirement allowance" means the retirement payments to which a member is entitled.

96 "Retirement plan administered by the Virginia Retirement System" means a retirement plan
97 established under this title administered by the Virginia Retirement System, or by an agency that has
98 been delegated administrative responsibility by the Virginia Retirement System, but such term shall
99 exclude any plan established under Chapter 6 (§ 51.1-600 et seq.) or Chapter 6.1 (§ 58.1-607 et seq.).

100 "Retirement System" means the Virginia Retirement System.

101 "Service" means service as an employee.

102 "State employee" means any person who is regularly employed full time on a salaried basis, whose
103 tenure is not restricted as to temporary or provisional appointment, in the service of, and whose
104 compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or
105 any department, institution, or agency thereof. "State employee" shall include any faculty member, but
106 not including adjunct faculty, of a public institution of higher education (a) who is compensated on a
107 salary basis, (b) whose tenure is not restricted as to temporary or provisional appointment, and (c) who
108 regularly works at least 20 hours but less than 40 hours per week (or works the equivalent of one-half
109 of a full time equivalent position) engaged in the performance of teaching, administrative, or research
110 duties at such institution; such faculty member shall be deemed an eligible employee for purposes of the
111 retirement provisions under §§ 51.1-126, 51.1-126.1, and 51.1-126.3. "State employee" shall also include
112 the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly but shall
113 not include (i) any local officer, (ii) any employee of a political subdivision of the Commonwealth, (iii)
114 individuals employed by the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv)
115 any member of the State Police Officers' Retirement System, (v) any member of the Judicial Retirement
116 System, or (vi) any member of the Virginia Law Officers' Retirement System.

117 "Teacher" means any person who is regularly employed full time on a salaried basis as a professional
118 or clerical employee of a county, city, or other local public school board.