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HOUSE BILL NO. 834

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact §§ 51.1-206 and 51.1-217 of the Code of Virginia, relating to pensions; hazardous duty pay.

Patrons—Wilt; Senator: Obenshain

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. That §§ 51.1-206 and 51.1-217 of the Code of Virginia are amended and reenacted as follows:****§ 51.1-206. Service retirement allowance.**

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

1. Normal retirement. — The allowance shall equal the amount of creditable service multiplied by (i) 1.70 percent of his average final compensation for retirements prior to July 1, 2007, and (ii) 1.85 percent of his average final compensation for retirements on or after July 1, 2007.

For retirements between October 1, 1994, and December 31, 1998, any state police officer 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 or disability 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 less than 25 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 or after his fiftieth birthday on which he would have completed a total of 25 years of creditable service.

B. In addition to the allowance payable under subsection A, a member shall receive annually from the date of his retirement until his retirement age, as such term is defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended), an allowance equal to \$9,264. Beginning July 1, 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an amount recommended by the actuary of the Virginia Retirement System based upon increases in social security benefits in the interim.

This subsection shall not apply to the following: (i) any member who qualifies for retirement under subsection C of § 51.1-205 and is credited with less than 20 years' service rendered in a hazardous position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than 20 years' service rendered in a hazardous position. However, any service rendered as an employee, as such term is defined in § 51.1-212, *or in the Fire and Rescue Department of the Virginia Air National Guard* shall be deemed as service in a hazardous position for purposes of the additional retirement allowance herein.

C. If a beneficiary of a service retirement allowance under this chapter 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.

§ 51.1-217. Service retirement allowance.

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

1. Normal retirement.

a. Notwithstanding the provisions of §§ 51.1-155, 51.1-155.1 and 51.1-155.2, for any employee commencing employment or reemployment on or after July 1, 2001, and for any employee who makes the election provided in § 51.1-221, the allowance shall equal (i) two percent of his average final compensation multiplied by the amount of creditable service earned (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, ~~or~~ (c) while earning the benefits permitted by § 51.1-138; *or (d) from service in the Fire and Rescue Department of the Virginia Air National Guard* and (ii) 1.70 percent of his average final compensation multiplied by all other creditable service, if any; and

b. For any other employee, the allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of creditable service.

2. Early retirement. — The allowance shall be determined in the same manner as for normal

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HB834

59 retirement with creditable service and average final compensation being determined as of the date of
60 actual retirement.

61 a. For an individual retiring pursuant to subdivision B 1 of § 51.1-216, who is not retiring directly
62 from service as an employee as defined in § 51.1-212, and who has less than ~~thirty~~ 30 years of service
63 shall retire under the provisions of the retirement system for which he is a member as of his retirement
64 date; and

65 b. For all other individuals retiring pursuant to subdivision B 1 of § 51.1-216, and for an individual
66 retiring pursuant to subdivision B 2 of § 51.1-216 who has less than ~~twenty-five~~ 25 years of service at
67 retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for
68 the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or
69 (ii) the first date on or after his fiftieth birthday on which he would have completed a total of
70 ~~twenty-five~~ 25 years of creditable service.

71 B. Any person who is an employee on June 30, 2001, and on July 1, 2001, who does not make the
72 election provided in § 51.1-221, shall receive, in addition to the allowance payable under subsection A,
73 from the date of his retirement until his sixty-fifth birthday, an annual allowance equal to \$9,264.
74 Beginning July 1, 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the
75 Board to an amount recommended by the actuary of the Virginia Retirement System based upon
76 increases in Social Security benefits in the interim. This subsection shall not apply to the following: (i)
77 any member who qualifies for retirement under subsection C of § 51.1-216 and is credited with less than
78 ~~twenty~~ 20 years' service rendered in a hazardous position or (ii) any member employed initially on or
79 after July 1, 1974, who is credited with less than ~~twenty~~ 20 years' service rendered in a hazardous
80 position. *For purposes of this subdivision, "employee" shall include any person who was serving in the*
81 *Fire and Rescue Department of the Virginia Air National Guard on June 30, 2001.*

82 C. If a beneficiary of a service retirement allowance under this chapter is at any time in service as an
83 employee in a position covered for retirement purposes under the provisions of this or any chapter other
84 than Chapter 7 (§ 51.1-700 et seq.) ~~of this title~~, his retirement allowance shall cease while so employed.

85 D. No person shall be eligible to receive any of the allowances provided in this section if he receives
86 retirement benefits under Chapter 2 (§ 51.1-200 et seq.) of Title 51.1 or under § 51.1-138. No person
87 shall receive any allowance pursuant to subdivision A 1 (i) if he has received an allowance pursuant to
88 subsection B of § 51.1-206 or subsection B of § 51.1-217, unless, after receiving the allowance pursuant
89 to subsection B of § 51.1-206 or subsection B of § 51.1-217, he becomes employed or reemployed as
90 an employee defined in § 51.1-212, and thereafter earns five or more years of creditable service (a) as a
91 member in the retirement system established by this chapter, (b) as a member in the retirement system
92 established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted
93 by § 51.1-138.

94 **2. That the provisions of this act shall apply to creditable service earned before July 1, 2022;**
95 **however, the provisions of this act shall not alter the amount of benefits payable to any individual**
96 **before the effective date of this act.**