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## HOUSE BILL NO. 1425

Offered January 22, 1996

A BILL to amend and reenact §§ 51.1-155, 51.1-157, 51.1-206, 51.1-306 and 51.1-308 of the Code of Virginia, relating to service retirement allowances in the Virginia Retirement System.

Patrons—Callahan, Albo, Connally, Dillard, Hull and Scott

Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 51.1-155, 51.1-157, 51.1-206, 51.1-306 and 51.1-308 of the Code of Virginia are 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 ~~1.50 percent of the first \$13,200 of average final compensation plus 1.65~~ 1.75 percent of average final compensation ~~in excess of \$13,200, multiplied by the amount of creditable service. If the member is credited with thirty-five or more years of service, he shall receive 1.65 percent of his average final compensation multiplied by the amount of his creditable service.~~

On and after October 1, 1994, any employee or local 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 retirement allowance payable under this section; provided that, for purposes of this additional retirement allowance, the term employee shall include only those employees of political subdivisions that have adopted a resolution providing for such an allowance under subsection B of § 51.1-130. 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; 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 thirty 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 thirty 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 of this subsection.

3. Early retirement; applicable to employees of certain political subdivisions. - 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 thirty or more years but the sum of his age at retirement plus his creditable service at retirement is less than ninety, 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 ninety or more had he remained in service until such date. If the member has less than thirty 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 thirty years of creditable service and his then creditable service plus his then attained age would have been equal to ninety or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2 of this subsection. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

4. Additional allowance. - In addition to the allowance payable under subdivisions 1, 2, and 3 of this subsection, 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

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60 of membership in the abolished system.

61 5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the  
62 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated  
63 service and deferred retirement to age fifty-five or (ii) the actuarially calculated present value of the  
64 member's accumulated contributions, including accrued interest.

65 B. Beneficiary serving in position covered by this title. - If a beneficiary of a service retirement  
66 allowance under this chapter, other than a member of the General Assembly, is at any time in service as  
67 an employee in a position covered for retirement purposes under the provisions of this or any chapter  
68 other than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so  
69 employed.

70 § 51.1-157. Disability retirement allowance.

71 A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or  
72 more years of creditable service shall receive an annual retirement allowance during his lifetime and  
73 continued disability equal to ~~1-65~~ 1.75 percent of average final compensation multiplied by the smaller  
74 of (i) twice the amount of his creditable service or (ii) the amount of creditable service he would have  
75 completed at age sixty if he had remained in service to that age. If a member has already attained age  
76 sixty, the amount of creditable service at his date of retirement shall be used.

77 On and after October 1, 1994, any employee or local officer who is a member or beneficiary of a  
78 retirement system administered by the Board shall receive an additional retirement allowance equal to  
79 three percent of the disability retirement allowance payable under this section; provided that, for  
80 purposes of this additional retirement allowance, the term employee shall include only those employees  
81 of political subdivisions that have adopted a resolution providing for such an allowance under subsection  
82 B of § 51.1-130. Average final compensation attributable to service as Governor, Lieutenant Governor,  
83 Attorney General, or member of the General Assembly shall not be included in computing this  
84 additional retirement allowance.

85 B. Workers' compensation guarantee. - If a member retires for disability from a cause which is  
86 compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the  
87 annual retirement allowance shall equal sixty-six and two-thirds percent of the member's average final  
88 compensation if the member does not qualify for primary social security benefits under the provisions of  
89 the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social  
90 security benefits under the provisions of the Social Security Act in effect on the date of his retirement,  
91 the allowance payable from the retirement system shall equal fifty percent of his average final  
92 compensation. A member shall be entitled to the larger of the retirement allowance as determined under  
93 the provisions of subsection A or under the provisions of this subsection.

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

103 D. Special retirement allowance guarantee. - Any member retired from a cause which is not  
104 compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement  
105 allowance during his lifetime and continued disability which equals fifty percent of the member's  
106 average final compensation if the member does not qualify for primary social security benefits under the  
107 provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for  
108 primary social security benefits under the provisions of the Social Security Act in effect on the date of  
109 retirement, the allowance payable from the retirement system shall equal thirty-three and one-third  
110 percent of his average final compensation.

111 E. Determination of retirement allowance. - For the purposes of this section, the retirement allowance  
112 shall be determined on the assumption that the retirement allowance is payable to the member alone and  
113 that no optional retirement allowance is elected.

114 § 51.1-206. Service retirement allowance.

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

116 1. Normal retirement. - The allowance shall equal ~~1-50 percent of the first \$13,200 of average final~~  
117 ~~compensation plus 1-65~~ 1.75 percent of average final compensation in excess of \$13,200 multiplied by  
118 the amount of creditable service. ~~If the member is credited with thirty-five or more years of service, he~~  
119 ~~shall receive 1-65 percent of his average final compensation multiplied by the amount of creditable~~  
120 ~~service.~~

121 On and after October 1, 1994, 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 twenty-five 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 twenty-five years of creditable service.

3. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the amount the member would receive if he had he taken early retirement or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. In addition to the allowance payable under subsection A of this section, a member shall receive an additional allowance equal to \$7,080 annually from date of retirement until his sixty-fifth birthday.

Such allowance shall be reviewed and adjusted by the Board biennially 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 twenty 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 twenty years' service rendered in a hazardous position.

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.

§ 51.1-306. 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 ~~1.65~~ 1.75 percent of average final compensation multiplied by the amount of creditable service. The allowance shall not exceed seventy-five percent of the average final compensation of the member.

On and after October 1, 1994, 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 thirty 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 thirty years of creditable service.

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, not to exceed seventy-five percent of his average final compensation, payable during his lifetime and continued disability equal to ~~1.65~~ 1.75 percent of average final compensation ~~when~~ multiplied by the smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would have completed at age sixty if he had remained in service to that age. If a member has already attained age sixty, the amount of creditable

183 service at his date of retirement shall be used.

184 On and after October 1, 1994, any judge who is a member or beneficiary of a retirement system  
185 administered by the Board shall receive an additional retirement allowance equal to three percent of the  
186 disability retirement allowance payable under this section. Average final compensation attributable to  
187 service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall  
188 not be included in computing this additional retirement allowance.

189 B. Workers' compensation guarantee. - If a member retires for disability from a cause which is  
190 compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the  
191 annual retirement allowance shall, subject to the provisions of subsection D, equal sixty-six and  
192 two-thirds percent of the member's average final compensation if the member does not qualify for  
193 primary social security benefits under the provisions of the Social Security Act in effect on the date of  
194 his retirement. If the member qualifies for primary social security benefits under the provisions of the  
195 Social Security Act in effect on the date of his retirement, the allowance payable from the retirement  
196 system shall equal fifty percent of his average final compensation. A member shall be entitled to the  
197 larger of the retirement allowance as determined under the provisions of subsection A of this section or  
198 under the provisions of this subsection.

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

203 D. Determination of retirement allowance. - For the purposes of this section, the retirement allowance  
204 shall be determined on the assumption that the retirement allowance is payable to the member alone and  
205 that no optional retirement allowance is elected.

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

215 F. Special retirement allowance guarantee. - Any member retired from a cause which is not  
216 compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement  
217 allowance during his lifetime and continued disability which equals fifty percent of the member's  
218 average final compensation if the member does not qualify for primary social security benefits under the  
219 provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for  
220 primary social security benefits under the provisions of the Social Security Act in effect on the date of  
221 retirement, the allowance payable from the retirement system shall equal thirty-three and one-third  
222 percent of his average final compensation.

223 **2. That, in addition to eligible members who retire on or after July 1, 1996, the provisions of this**  
224 **act shall apply to retirement allowances commencing on, before, or after July 1, 1996, that are**  
225 **paid to beneficiaries pursuant to §§ 51.1-155, 51.1-157, 51.1-206, 51.1-306 and 51.1-308.**

226 **3. That the provisions of this act shall apply to employees of political subdivisions unless the**  
227 **employer notifies the Board of Trustees otherwise in writing on or before July 1, 1996.**