

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 676

An Act to amend and reenact §§ 2.1-20.1:2, 2.1-20.1:3, 2.1-20.1:4, 51.1-142, 51.1-155.2, 51.1-165 and 51.1-206 of the Code of Virginia, relating to the Virginia Retirement System; benefits provided.

[H 262]

Approved April 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-20.1:2, 2.1-20.1:3, 2.1-20.1:4, 51.1-142, 51.1-155.2, 51.1-165 and 51.1-206 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-20.1:2. Health insurance credits for retired state employees.

A. The Commonwealth shall pay the cost of coverage for state employees retired under the Virginia Retirement System, State Police Officers Retirement System, Judicial Retirement System or any retirement system authorized pursuant to § 51.1-126 who (i) ~~served no less than~~ *rendered at least* fifteen years of ~~total creditable service as regularly employed full-time employees of the Commonwealth under the Retirement System~~ or (ii) rendered service as a temporary employee of the General Assembly in 1972 and became a member of the retirement system from 1972 to 1985 immediately following such temporary service. An amount of two dollars and fifty cents per year of creditable service not to exceed a maximum monthly allowance of seventy-five dollars shall be credited monthly to any retired state employee participating in the state health plan established by § 2.1-20.1 or a personal health insurance plan as provided herein. However, such credit shall not exceed the health insurance premium for retiree-only coverage as provided under such personal health insurance plan. Any retired state employee retired under the provisions of §§ 51.1-156 and 51.1-307 shall receive the maximum credit provided by this section. Any member who elects to defer his retirement pursuant to subsection C of §§ 51.1-153, 51.1-205 and 51.1-305 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. 1. For those retired state employees participating in the state health plan, such credit shall be applied to the monthly premium deducted from benefits payable to retired state employees in accordance with Chapters 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.) and 3 (§ 51.1-300 et seq.) of Title 51.1. In the event that either no benefit is payable or the benefit payable is insufficient to deduct the entire health care premium, ~~the payment of the credit shall be determined in the manner prescribed by the Virginia Retirement System shall transfer funds in an amount equivalent to the credits that would otherwise have been payable to the Department of Personnel and Training.~~ Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

2. For those retired state employees electing not to participate in the state health plan and who purchase an alternative personal health insurance policy from a carrier or organization of his own choosing, such retirees shall be eligible to receive a reimbursement equal to the credit in the amount specified in subdivision B 3. Such reimbursement, not to exceed the actual premium paid, and reduced by the administrative charge for processing the reimbursement, shall be paid upon presentation of documentation satisfactory to the Virginia Retirement System that the premium for such personal health insurance policy has been paid. Eligibility for reimbursement under this section shall be determined in a manner prescribed by the Virginia Retirement System. The retired state employee's election to participate shall be deemed continuing and automatically renewed unless such retiree affirmatively revokes, in writing, his participation. Subject to the limitations of subdivision B 3, the reimbursement amount shall increase or decrease, in like amount, if the retiree's private health insurance policy premium increases or decreases.

3. The reimbursement shall be in the amount of the credit provided in subsection A or the amount of premium paid for the personal health insurance policy, whichever is less.

4. A retired state employee who fails to elect to participate in the state health plan within thirty-one days of the effective date of retirement, or who, once having elected to participate, discontinues participation, is barred from participating in the state health plan thereafter.

C. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided by this section ~~and shall~~, reflect the cost of such credits in the employer contribution rate pursuant to § 51.1-145, ~~and prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust fund.~~

§ 2.1-20.1:3. Health insurance credits for retired teachers.

A. A teacher, as defined in § 51.1-124.3, retired under the Virginia Retirement System who rendered at least fifteen years of total creditable service under the System shall receive a health insurance credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health

insurance premium cost. The amount of each monthly health insurance credit payable under this section shall be one dollar and fifty cents for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of forty-five dollars; however, each former member whose retirement was for disability shall receive a monthly health insurance credit of forty-five dollars. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement. The cost of such credit shall be borne by the Commonwealth.

B. In addition to the health insurance credit authorized in subsection A, localities ~~who~~ *which* participate in the Virginia Retirement System may elect to provide an additional health insurance credit of one dollar per month for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of thirty dollars. The costs of such additional health insurance credit shall be borne by the locality.

C. 1. Those retired employees who purchase an alternative personal health insurance policy from a carrier or organization of their own choosing shall be eligible to receive a reimbursement equal to the credit in the amount specified in subdivision C 2. Such reimbursement, not to exceed the actual premium paid, and reduced by the administrative charge for processing the reimbursement, shall be paid upon presentation of documentation satisfactory to the Virginia Retirement System that the premium for such personal health insurance policy has been paid. Eligibility for reimbursement under this provision shall be determined in a manner prescribed by the Virginia Retirement System. Reimbursement of the retired employee shall be deemed continuing and automatically renewed unless such retiree affirmatively revokes, in writing, his eligibility for reimbursement. Subject to the limitations of subdivision C 2, the reimbursement amount shall increase or decrease, in like amount, if the retiree's private health insurance policy premium increases or decreases.

2. The reimbursement shall be in (i) the amount of the credit provided in subsection A, or subsection A and subsection B if the additional credit authorized by subsection B is provided, or (ii) the amount of premium paid for the personal health insurance policy, whichever is less.

D. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all credits provided under this section, (ii) reflect the cost of such credits in the applicable employer contribution rate pursuant to § 51.1-145, and (iii) prescribe such terms and conditions as are necessary to carry out the provisions of this section. ~~In addition, the Retirement System shall be entitled to recover from the Department of Personnel and Training, through interagency transfer or otherwise, reasonable costs associated with the administration of the health insurance credit program provided for in this section. The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust fund.~~

§ 2.1-20.1:4. Health insurance credits for local government employees.

A. Retired local government employees, whose localities have elected to participate in the Virginia Retirement System, who have rendered at least fifteen years of total creditable service under the System shall receive a health insurance credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium cost, provided (i) the retiree's employer elects to participate in the credit program and sponsors a health insurance plan for its employees and (ii) the employee elects to participate in that employer-sponsored plan. The amount of each monthly health insurance credit payable under this section shall be \$1.50 for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of forty-five dollars; however, each former member whose retirement was for disability shall receive a monthly health insurance credit of forty-five dollars. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. The monthly health insurance credit payable under this section shall be paid by the locality.

C. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided under this section ~~and shall~~, reflect the cost of such credits in the applicable employer contribution rate *pursuant to § 51.1-145, and prescribe such terms and conditions as are necessary to carry out the provisions of this section.* ~~In addition, the Retirement System shall be entitled to recover from the Department of Personnel and Training, through interagency transfer or otherwise, reasonable~~ *The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust fund.*

D. Employers who elect to participate in the program by offering an employer-sponsored health insurance plan shall notify the Virginia Retirement System at least twelve months prior to the date such employers elect to commence participation in the program. The effective date of the employer's participation shall correspond with the beginning of the Commonwealth's fiscal year.

§ 51.1-142. Prior service or membership credit for certain members.

A. Any member in service may purchase credit for service lost as a result of the following:

1. Rejection of membership in the retirement system.
2. Cessation of membership under this chapter because of the withdrawal of his accumulated

contributions.

3. Exclusion from membership because of being a member of the General Assembly or other state officer elected by the people.

4. Termination of service as an officer or employee of a political subdivision in a position which subsequently became covered by the retirement system and for which prior service credit was granted.

In order to receive credit for the service, the member must pay an amount equal to the contributions that he would have made during the entire period to be credited, assuming that the member contribution rate specified in this chapter as of the date of payment had been in effect during the entire period and that the higher of the member's creditable compensation or average final compensation as of the date of payment had been received during the entire period.

When a member requests credit for a portion of the period, the most recent portion shall be credited. Payment may be made in a lump sum or by an additional payroll deduction. Only one additional deduction shall be permitted at any time. Should the additional deduction be terminated prior to purchasing the entire period which might otherwise be credited, the member shall be credited with the number of additional months of service for which payments are made. If the additional deduction is continued beyond the point at which the entire period has been purchased, the member shall be credited with no more than the entire period which might otherwise have been credited and the excess amount deducted shall be refunded to the member.

B. Any vested member in service with at least twenty-five years of creditable service in the Retirement System may purchase prior service credit for (i) active duty military service in the armed forces of the United States, provided that the discharge from the armed forces was not dishonorable ~~and the member has not withdrawn his accumulated contributions or~~, (ii) certified creditable service in the retirement system of another state *or of a political subdivision or public school system of this or another state*, (iii) ~~both~~ *civilian service of the United States*, or (iv) *any combination thereof*. For purposes of this subsection, "active duty military service" means full-time service of at least 180 consecutive days in the United States Army, Navy, Air Force, Marines, Coast Guard, or reserve components thereof.

Such prior service credit shall be calculated at the ratio of one year of prior service credit to one year of active duty military service or certified creditable service in the retirement system of another state, *political subdivision or public school system of this or another state, or civilian service of the United States* up to a maximum of three years of prior service credit. The member must pay an amount equal to five percent of his present annual compensation for each year to be credited or five percent of his average annual creditable compensation during his thirty-six highest consecutive months of creditable service, whichever is greater. Such prior service credit shall not be otherwise creditable as prior service in the calculation of any retirement benefit by *this or* another retirement system, but shall be creditable as prior service under this chapter and, if applicable, shall be considered in determining the actuarial equivalent for early retirement. Prior service credit for more than three years of service may be purchased by the member pursuant to § 51.1-143.

C. Any member granted a leave of absence for any of the following reasons may purchase limited service on the basis set forth in subsection A of this section:

1. Up to four years of service for any leave of absence for educational purposes or for temporary employment with the General Assembly.

2. Up to four years of service subsequent to January 1, 1964, for any leave of absence due to illness or disability or service which was temporarily terminated due to illness or disability.

D. Any member in service who was denied membership because of having attained age sixty when first employed or reemployed may purchase all or any portion of service lost as a result of denial upon payment in a lump sum of the amount the member would have contributed had he been allowed to participate in the system.

E. Service may be credited at no cost under the following circumstances:

1. Any member who was a member of the abolished system and who was in service on March 1, 1952, shall receive credit for service rendered as a state employee or teacher prior to July 1, 1942, provided the member has not received a refund of accumulated contributions since becoming a member of the abolished system.

2. Any member in service who is credited with five or more years of membership service who rendered full-time salaried service as a state employee or teacher prior to July 1, 1942, may receive credit for same.

3. Any member who is a teacher may receive credit for service rendered as a nonprofessional employee of a school board provided the school board has extended coverage to its nonprofessional employees and granted credit for service rendered prior to the effective date of coverage.

4. Any vested member who is a teacher shall receive up to two years of service credit for any involuntary leave of absence, without pay, required by local school division policies related to pregnancy or childbirth provided (i) the member was either on such leave from a covered position or submitted a letter of resignation required by the employer prior to July 1, 1974, (ii) the member has not withdrawn all accumulated contributions, and (iii) the member reenters service in a covered position. In such instances, the employer, or its successors, which had such policies in place and applied same to the

teacher seeking additional service credit shall be liable for the cost of providing such service credit.

5. Any member may receive credit for service rendered in the armed forces of the United States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from the armed forces was not dishonorable, (iii) the member has not withdrawn his accumulated contributions, and (iv) the member reenters service in a covered position within one year after discharge from the armed forces. No period of service rendered, through reenlistment, beyond the cessation of hostilities shall be creditable service.

F. Any member of the abolished system may transfer accumulated contributions in that system to the Retirement System within one year after becoming a member of the Retirement System.

G. Any vested member in service who (i) by virtue of an order of a court of this Commonwealth granting special police powers, enforced the laws of the Commonwealth at any time between 1964 and 1981 as a uniformed law-enforcement officer in any incorporated or unincorporated town in any county with a population between 55,000 and 60,000, as reported in the 1990 census of the population of the United States, and at the time of such member's law-enforcement service, such county participated in the Virginia Retirement System; (ii) reentered service in a covered position; and (iii) has not withdrawn his accumulated contributions, may purchase prior service credit pursuant to § 51.1-144.

H. Any vested member in service who (i) prior to January 1, 1982, was employed by the Commissioner of Revenue in any city of this Commonwealth with a population greater than 200,000, as reported in the 1990 census of the population of the United States, and (ii) on January 1, 1982, became an employee of the Director of Finance in any city of this Commonwealth with a population greater than 200,000, as reported in the 1990 census of the population of the United States, which participated in the Virginia Retirement System, and (iii) has not withdrawn his accumulated contributions, may transfer his years of creditable service from the city's retirement plan to the Virginia Retirement System. The Virginia Retirement System shall compute the present value of the retirement benefit of service so transferred and the city's retirement plan shall pay in a manner prescribed by the Retirement System.

§ 51.1-155.2. Exceptions from general early retirement provisions for certain local government officials.

A. Members of the retirement system who (i) are appointed county administrator pursuant to ~~§ 15.1-115 or § 15.1-704~~ 15.2-406, urban county executive pursuant to ~~§ 15.1-731~~ 15.2-804, county executive pursuant to ~~§ 15.1-595~~ 15.2-509, county manager pursuant to ~~§ 15.1-631~~ 15.2-609 or ~~§ 15.1-674~~ 15.2-702, or city or town manager pursuant to ~~§§ 15.1-795, 15.1-920, or § 15.1-926~~ Chapter 15 (§15.2-1500 et seq.) of Title 15.2; (ii) are involuntarily separated from service; and (iii) have twenty or more years of creditable service at the date of separation, may retire without the reduction in retirement allowance required by *subdivisions A 2 and A 3 of § 51.1-155 A 2* upon attaining age fifty-five.

B. For the purposes of this section, "involuntary separation" means any dismissal, requested resignation, or failure to obtain reappointment, except in case of a conviction for a felony or crime involving moral turpitude or dishonesty.

C. The cost of this provision shall be borne by the locality.

§ 51.1-165. Optional benefits.

A. Any member not taking 50/10 retirement as provided in § 51.1-153 or § 51.1-205 may elect to have his retirement allowance payable under one of the options set forth in this subsection and receive the actuarial equivalent of the retirement allowance otherwise payable to him. The election of an optional benefit shall be subject to the approval of the Board.

1. Straight life option. - A member may elect to receive an increased retirement allowance in lieu of any death benefits.

2. Joint and last-survivor option. - A member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance, or one-half thereof, continued after his death to a contingent annuitant during the lifetime of such person. If the member's retirement is for disability, the election of the retirement allowance to be continued after the member's death shall be limited to one-half of the decreased retirement allowance received by the member during his lifetime. In case of such an election, death benefits that might otherwise be provided shall not be payable upon the death of the member unless death of the member occurs prior to the effective date of retirement as set forth in subsection B of this section. This option may not be elected by a member if the leveling option of subdivision 3 of this subsection has previously been elected, nor may it be elected if the contingent annuitant is not the spouse of the member and the actuarially computed present value of the payments expected to be made to the member is less than one-half of the actuarially computed present value of the total payments expected to be made to the member and the contingent annuitant.

3. Leveling option. - If a member retires from service on or after January 1, 1994, he may elect to receive a temporary increased retirement allowance beginning on the member's effective date of retirement and continuing until the member reaches age fifty-nine and one-half or any whole age up through age seventy and one-half, as designated by the member at the time of his retirement. Upon attaining the age designated, the temporary allowance shall cease and the retirement allowance shall be reduced on an actuarially equivalent basis. The temporary retirement allowance specified by the member

shall not result in more than a fifty percent reduction in the member's benefit as provided in § 51.1-155. Any member electing to receive such an allowance shall not be entitled to a joint and last survivor benefit.

4. Other options. - Some other benefits may be paid either to the member or to contingent annuitants he elects. However, the actuarially computed expected duration of the payment of any such benefits shall not exceed the actuarially computed life expectancy of the member and his spouse, and the actuarially computed present value of the payments expected to be made to the member shall be greater than one-half of the actuarially computed combined present value of the total payments expected to be made to the member and any contingent annuitant, but in no event shall the payment to the contingent annuitant exceed the amount of the member's benefit payable under the special option selected.

B. Any member taking 50/10 retirement as provided in § 51.1-153 or § 51.1-205 may elect to have his retirement allowance payable under the option set forth in this subsection and receive the actuarial equivalent of the retirement allowance otherwise payable to him. The election of this optional benefit shall be subject to the approval of the Board.

50/10 retirement joint and last-survivor option. - A member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance continued after his death to a contingent annuitant during the lifetime of such person. The retirement allowance pursuant to this option shall be determined as provided in subdivision A 5 of § 51.1-155, except (i) the present value of future retirement benefits shall be calculated based on the life expectancies of both the member and the contingent annuitant and (ii) the actuarially computed present value of the payments expected to be made under this option shall be actuarially equivalent to the actuarially computed present value of the payments expected to be made to the member as determined pursuant to subdivision A 5 of § 51.1-155.

C. The election of any one of the options stated in this section shall be null and void if the member dies prior to the Board receiving written notification of the member's effective date of retirement. The election of a joint and last-survivor option shall be null and void if the contingent annuitant dies before the member's retirement. For purposes of this subsection, retirement shall be deemed to commence on the effective date of a member's service retirement or disability. If the death of the member occurs prior to the effective date of retirement but after the Board has received written notification of the member's effective date of retirement, benefits shall be paid in accordance with the provisions of § 51.1-163 and the requirement that the member be in service shall not apply.

D. A member who has elected any of the options stated in this section may revoke such an election by written notification to the Board any time prior to the later of the effective date of retirement or the date of written notification to the Board of retirement of the member.

E. A retired member who has elected a joint and last-survivor option may, ~~by written notification to~~ *in a manner prescribed by the Board*, revoke such election and elect to receive from time of notification either the retirement allowance to which he would have been entitled had no option been elected initially or an allowance actuarially equivalent thereto under a joint and last-survivor option with a different contingent annuitant, if (i) the original contingent annuitant has died, (ii) a final decree of divorce of the retired member from the original contingent annuitant has been entered, or (iii) the written consent of the original contingent annuitant, together with evidence satisfactory to the Board of the good health of the original contingent annuitant, is submitted with the notification. If the provisions of this subsection are invoked by a retired member on the basis of the member's having been divorced from his contingent annuitant and the marriage had been of a duration of twenty years or more, the provisions of this subsection shall not be applicable until the death or remarriage of the former spouse unless such spouse consents in writing to the revocation of the option prior to death or remarriage.

If such an election is made as a result of the death or divorce of the contingent annuitant, the benefit payable to the retired member may be adjusted retroactively for a period of not more than sixty days from the date the Board first receives notification of the desire of the retired member to make such a change.

F. Subject to the provisions of subsection E of this section, any member who retires on or after July 1, 1986, and returns to covered employment shall not be entitled to select a different optional benefit upon making application for retirement a second *or subsequent* time.

§ 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 1.50 percent of the first \$13,200 of average final compensation plus 1.65 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 creditable service.

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~~ 8,952 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.