

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 746

An Act to amend and reenact §§ 51.1-155 and 51.1-155.1 of the Code of Virginia, relating to retirement benefits for certain members of the Virginia Retirement System.

[H 272]

Approved April 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-155 and 51.1-155.1 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 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 of membership in the abolished system.

5. 50/10 retirement. The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age fifty-five or (ii) the actuarially calculated present value of the

member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. *Except as provided in subdivision 2, if a beneficiary of a service retirement allowance under this chapter, other than a member of the General Assembly, 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.*

2. *Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.*

§ 51.1-155.1. Exceptions from general early retirement provisions for certain state employees.

A. Members of the retirement system (i) whose positions are described by subdivision 1 (*except members of the Judicial Retirement System (§ 51.1-300 et seq.)*), 2 (*except members of the Judicial Retirement System (§ 51.1-300 et seq.)*), 3, 4 (*except officers elected by popular vote*), 7, 13, 14, 15, 16, 17, or 19 of § 2.1-116 ~~or~~; (ii) *who are* agency heads appointed by a state board, state commission, or state council; or (iii) *who are* school division superintendents appointed by a school board pursuant to § 22.1-60, and (a) who are involuntarily separated from state service and (b) who have twenty or more years of creditable service at the date of separation, may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155, upon attaining age fifty-five.

B. *Any member of the retirement system who (i) serves as chief executive officer of an interstate commission pursuant to Virginia's participation in such commission; (ii) is involuntarily separated from service; and (iii) has twenty or more years of creditable service at the date of separation, may retire without the reduction in retirement allowance required by § 51.1-155 A 2 upon attaining age fifty-five.*

~~B.~~ C. 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.~~ D. Any state employee who retires under the provisions of this section on or after January 1, 1994, shall be eligible to participate in the state health insurance program as provided in § 2.1-20.1 and receive group life insurance benefits as provided in subsection B of § 51.1-505.

2. That any active member of the General Assembly who is receiving a retirement allowance while in service as a member of the General Assembly based solely on such member's service as a member of the General Assembly, as permitted by subsection B of § 51.1-155 as it existed prior to the effective date of this act, combined with any purchased service as permitted in §§ 51.1-142 and 51.1-143, shall be prospectively unretired and placed in active duty status as provided for other state employees generally pursuant to Title 51.1 of the Code of Virginia. However, any such member, at his option, may be retroactively unretired by repaying any such sums he may have received, with interest thereon at the rate set forth in subsection C of § 51.1-147. Any such member who purchased service as permitted in §§ 51.1-142 and 51.1-143 shall be provided an opportunity to rescind such purchase of service and request a refund of any such purchased service.

3. That an emergency exists and this act is in force from its passage.