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HOUSE BILL NO. 1017

Offered January 26, 1998

A BILL to amend and reenact § 51.1-162 of the Code of Virginia, relating to benefits in the Virginia Retirement System.

Patron—Grayson

Consent to introduce

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. That § 51.1-162 of the Code of Virginia is amended and reenacted as follows:**

§ 51.1-162. Death before retirement.

A. Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed and acknowledged by the member before a person authorized to take acknowledgments, and filed with the Board. The designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed with the Board. If the death of the designated person occurs prior to the death of the member and another designation has not been made, payment shall be made to the executors or administrators of the estate of the member.

If no designation has been made, the proceeds shall be paid to the persons surviving at the death of the member in the following order of precedence:

First, to the spouse of the member;

Second, if no surviving spouse, to the children of the member and descendants of deceased children, per stirpes;

Third, if none of the above, to the parents of the member;

Fourth, if none of the above, to the duly appointed executor or administrator of the estate of the member;

Fifth, if none of the above, to other next of kin of the member entitled under the laws of the domicile of the member at the time of his death.

If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to the persons qualifying in the order of precedence. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter or the abolished system.

B. If a member dies in service and if no benefits are payable under subsection C of this section, a retirement allowance shall be paid to the person designated as provided in subsection A of this section if the person is the (i) surviving spouse, (ii) minor child, (iii) mother, or (iv) father of the member. The retirement allowance shall be paid to the first person qualifying in the order of precedence set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. If a member dies prior to attaining his sixty-fifth birthday, the allowance shall equal one-half of the retirement allowance that would have been payable to the member had the member retired for early service retirement on the date of his death and elected to have his allowance payable under the joint and last-survivor option so that one-half thereof would be continued to such person after the member's death. In the case of a member who had not attained his fifty-fifth birthday at his date of death, it shall be assumed that the member's age at his date of death is fifty-five for the purpose of reducing the benefit on an actuarial equivalent basis. If a member dies after attaining his sixty-fifth birthday, the allowance shall equal the deceased retirement allowance that would have been payable to the member had the member retired at his normal retirement age on the date of his death and elected to have his allowance payable under the joint and last-survivor option so that the same amount would be continued to such person after the member's death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subdivision A 4 of § 51.1-155 shall not apply. Any option that would have been available to the member at normal retirement shall be available to the beneficiary subject to the same terms and conditions that would have applied to the member. If the person elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions shall be paid to him exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any

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60 retirement allowance previously received by the member under this chapter.

61 C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation
62 Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no
63 compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings
64 or otherwise resulting in settlement from the persons causing such death, the Virginia Workers'
65 Compensation Commission shall determine whether the member's death was from a cause compensable
66 under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the
67 surviving spouse dies or remarries, any minor children of the deceased member shall be paid an
68 allowance until the children die or attain the age of majority, whichever occurs first. If more than one
69 minor child survives the deceased member, the allowance shall be divided in a manner determined by
70 the Board. If the deceased member leaves neither surviving spouse nor minor child, the allowance shall
71 be paid to the member's parents wholly dependent upon him for support, divided in a manner
72 determined by the Board, during the lives of the parents.

73 The retirement allowance payable hereunder to a qualifying survivor shall be the annual amount
74 which when added to the compensation payable under the Virginia Workers' Compensation Act for the
75 death of the member equals fifty percent of the member's average final compensation if the survivor
76 does not qualify for death benefits under the provisions of the Social Security Act in effect on the date
77 of the death of the member. If the survivor qualifies for death benefits under the provisions of the
78 Social Security Act in effect on the date of the death of the member, the allowance payable from the
79 retirement system when added to the compensation payable under the Virginia Workers' Compensation
80 Act shall equal thirty-three and one-third percent of the member's average final compensation.

81 Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this
82 subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by
83 written notification to the Board within ninety days after the death of the member in order to make
84 available a retirement allowance under the provisions of subsection B of this section.