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HOUSE BILL NO. 155

Offered January 15, 1998

A BILL to amend and reenact §§ 51.1-124.3 and 51.1-142 of the Code of Virginia and to amend the Code of Virginia by adding in Article 6 of Chapter 1 of Title 51.1 a section numbered 51.1-143.2, relating to the Virginia Retirement System; benefits.

Patrons—Woodrum, Armstrong, Barlow, Baskerville, Brink, Cranwell, Darner, Day, DeBoer, Joannou, Johnson, Jones, D.C., Keating, McEachin, Moran, Puller, Robinson, Scott, Shuler, Stump, Tate, Van Yahres and Watts

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3 and 51.1-142 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 6 of Chapter 1 of Title 51.1 a section numbered 51.1-143.2 as follows:

§ 51.1-124.3. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1990, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his thirty-six highest consecutive months of creditable service or during the entire period of his creditable service if less than thirty-six months. If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

"Beneficiary" means any person entitled to receive benefits under this chapter.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Creditable compensation" means the full compensation payable annually to an employee working full time in his covered position. In cases where compensation includes maintenance or other perquisites, the Board shall fix the value of that part of the compensation not paid in money. Remuneration received by members of the General Assembly not otherwise retired under the provisions of this chapter pursuant to §§ 14.1-17.1, 14.1-18 and 14.1-18.2 shall be deemed creditable compensation *except as provided in § 51.1-143.2*. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly *except as provided in § 51.1-143.2*.

"Creditable service" means prior service plus membership service for which credit is allowable.

"Employee" means any teacher, state employee, officer, or employee of a locality participating in the Retirement System.

"Employer" means the Commonwealth in the case of a state employee, the local public school board in the case of a teacher, or the political subdivision participating in the Retirement System.

"Joint Rules Committee" means those members of the House of Delegates and the Senate designated by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet with each other and to act jointly on behalf of the Committee on Rules for each house.

"Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

"Medical Board" means the board of physicians as provided by this chapter.

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60 "Member" means any person included in the membership of the Retirement System.

61 "Membership service" means service as an employee rendered while a contributing member of the
62 Retirement System except as provided in this chapter.

63 "Normal retirement date" means a member's sixty-fifth birthday.

64 "Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or
65 unit of the Commonwealth, or any commission, public authority, or body corporate created by or under
66 an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the
67 commission, public authority, or body corporate.

68 "Primary social security benefit" means, with respect to any member, the primary insurance amount
69 to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions
70 of the federal Social Security Act as in effect at his date of retirement, under the provisions of this
71 chapter except as otherwise specifically provided.

72 "Prior service" means service rendered prior to becoming a member of the Retirement System.

73 "Retirement allowance" means the retirement payments to which a member is entitled.

74 "Retirement System" means the Virginia Retirement System.

75 "Service" means service as an employee.

76 "State employee" means any person who is regularly employed full time on a salaried basis, whose
77 tenure is not restricted as to temporary or provisional appointment, in the service of, and whose
78 compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or
79 any department, institution, or agency thereof. "State employee" shall include the Governor, Lieutenant
80 Governor, Attorney General, and members of the General Assembly but shall not include (i) any local
81 officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) individuals employed by
82 the Department for the Visually Handicapped pursuant to § 63.1-73; (iv) any member of the State Police
83 Officers' Retirement System, or (v) any member of the Judicial Retirement System.

84 "Teacher" means any person who is regularly employed full time on a salaried basis as a professional
85 or clerical employee of a county, city, or other local public school board.

86 § 51.1-142. Prior service or membership credit for certain members.

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

88 1. Rejection of membership in the retirement system.

89 2. Cessation of membership under this chapter because of the withdrawal of his accumulated
90 contributions.

91 3. Exclusion from membership because of being a member of the General Assembly or other state
92 officer elected by the people, *provided that members of the General Assembly shall not receive credit in*
93 *excess of the amount permitted by § 51.1-143.2.*

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

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

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

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

116 Such prior service credit shall be calculated at the ratio of one year of prior service credit to one
117 year of active duty military service or certified creditable service in the retirement system of another
118 state, up to a maximum of three years of prior service credit. The member must pay an amount equal to
119 five percent of his present annual compensation for each year to be credited or five percent of his
120 average annual creditable compensation during his thirty-six highest consecutive months of creditable
121 service, whichever is greater. Such prior service credit shall not be otherwise creditable as prior service

in the calculation of any retirement benefit by 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.

§ 51.1-143.2 Coordination of credits received as members of the General Assembly and as a members in the judicial or executive branches of government.

A. Any member who has credit for years of service as a member of the General Assembly in addition to credit for years of service as a member in the judicial or executive branches of the government in the Commonwealth shall not receive the credit for service as a member of the General Assembly.

183 *B. Members who are not eligible for credit for years of service as a member of the General*
184 *Assembly may elect to withdraw their member contributions, including interest, at any time by written*
185 *notice to the Board.*