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HOUSE BILL NO. 36**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Appropriations)

(Patron Prior to Substitute—Delegate Callahan)

House Amendments in [] — February 15, 1998

A BILL to amend and reenact §§ 51.1-155, 51.1-157, 51.1-206 and 51.1-306 of the Code of Virginia, relating to Virginia's retirement systems; retirement allowance formula.

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-155, 51.1-157, 51.1-206 and 51.1-306 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~~ *1.70* percent of the first \$13,200 of his 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~~ *For retirements between October 1, 1994, and December 31, 1998,* 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

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60 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated
61 service and deferred retirement to age fifty-five or (ii) the actuarially calculated present value of the
62 member's accumulated contributions, including accrued interest.

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

68 § 51.1-157. Disability retirement allowance.

69 A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or
70 more years of creditable service shall receive an annual retirement allowance during his lifetime and
71 continued disability equal to ~~1.65~~ 1.70 percent of *his* average final compensation multiplied by the
72 smaller of (i) twice the amount of his creditable service or (ii) the amount of creditable service he
73 would have completed at age sixty if he had remained in service to that age. If a member has already
74 attained age sixty, the amount of creditable service at his date of retirement shall be used.

75 ~~On and after~~ *For retirements between October 1, 1994, and December 31, 1998*, any employee or
76 local officer who is a member or beneficiary of a retirement system administered by the Board shall
77 receive an additional retirement allowance equal to three percent of the disability retirement allowance
78 payable under this section; provided that, for purposes of this additional retirement allowance, the term
79 employee shall include only those employees of political subdivisions that have adopted a resolution
80 providing for such an allowance under subsection B of § 51.1-130. Average final compensation
81 attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General
82 Assembly shall not be included in computing this additional retirement allowance.

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

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

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

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

112 § 51.1-206. Service retirement allowance.

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

114 1. Normal retirement. - The allowance shall equal ~~1.50~~ 1.70 percent of the first \$13,200 of *his*
115 average final compensation ~~plus 1.65 percent of average final compensation in excess of \$13,200~~
116 ~~multiplied by the amount of creditable service. If the member is credited with thirty-five or more years~~
117 ~~of service, he shall receive 1.65 percent of his average final compensation multiplied by the amount of~~
118 ~~creditable service.~~

119 ~~On and after~~ *For retirements between October 1, 1994, and December 31, 1998*, any state police
120 officer who is a member or beneficiary of a retirement system administered by the Board shall receive
121 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 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.

§ 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 ~~4.65~~ 1.70 percent of [his] 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~~ *For retirements between October 1, 1994, and December 31, 1998,* 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.

2. That members who retire on or before January 1, 1999, shall receive a two percent increase in their base rates.

3. That, in addition to eligible members who retire on or after January 1, 1999, the provisions of this act shall apply to retirement allowances commencing on, before, or after January 1, 1999, that are paid to beneficiaries pursuant to §§ 51.1-155, 51.1-157, 51.1-206, and 51.1-306.