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HOUSE BILL NO. 355

Offered January 15, 1998

A *BILL to amend the Code of Virginia by adding in Title 51.1 a chapter numbered 2.1, consisting of sections numbered 51.1-211 through 51.1-221, relating to membership in the Special Agents' Retirement System.*

Patron—Cranwell

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 51.1 a chapter numbered 2.1, consisting of sections numbered 51.1-211 through 51.1-221, as follows:

CHAPTER 2.1.**SPECIAL AGENTS' RETIREMENT SYSTEM.**

§ 51.1-211. *Special Agents' Retirement System; application of provisions of Virginia Retirement System.*

The Special Agents' Retirement System is created and shall be administered by the Board of Trustees of the Virginia Retirement System. Except as otherwise provided, the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of this title shall apply to and govern the operation of the Special Agents' Retirement System.

§ 51.1-212. *Definitions.*

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

"Employee" means (i) a special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.), (ii) a campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.), or (iii) a law-enforcement officer of any locality or political subdivision of this Commonwealth.

"Member" means any person included in the membership of the retirement system as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement system" means the Special Agents' Retirement System.

§ 51.1-213. *Membership in retirement system.*

Membership in the retirement system shall be compulsory for all employees.

§ 51.1-214. *Creditable service.*

A. Service qualifying for credit under the provisions of the Virginia Retirement System shall be included as creditable service for the purposes of this chapter, provided the requirements set forth in Chapter 1 (§ 51.1-124.1 et seq.) of this title for crediting service have been complied with and any payment required is credited in the member's contribution account.

B. Service purchased in accordance with the provisions of § 51.1-143 shall not be considered:

1. In determining the actuarial equivalent for early retirement.

2. In determining the twenty years of service requirement of subsection B of § 51.1-217, except for that which had been rendered in a hazardous position and had been credited in the retirement system of a political subdivision of this Commonwealth.

3. Twice in determining any disability allowance payable under this chapter.

C. If a member ceases to be an employee, has not received a refund of the accumulated contributions credited to his member's contribution account, and accepts employment in a position covered by the Virginia Retirement System, the Judicial Retirement System or the State Police Officers' Retirement System, he shall be entitled to credit for his previous creditable service under this chapter. His accumulated contributions shall be transferred and credited to his member's contribution account in the appropriate retirement system. Future retirement rights shall be as set forth under the provisions of the appropriate retirement system.

§ 51.1-215. *Contributions by Commonwealth.*

The Commonwealth shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The amount shall be determined and paid as provided in Chapter 1 (§ 51.1-124.1 et seq.) of this title.

§ 51.1-216. *Service retirement generally.*

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board, setting forth the date the retirement is to become effective. Any member, except one appointed by the Governor or elected by the

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60 people, who attains seventy years of age shall be retired forthwith. Any employer, subsequent to the
61 employee's normal retirement date, may provide for compulsory service retirement upon a determination
62 that age is a bona fide occupational qualification reasonably necessary to the normal operation of the
63 particular business or that the employee is incapable of performing his duties in a safe and efficient
64 manner. Any such determination shall be made by the employer.

65 B. Early retirement. - Any member in service who has attained his fiftieth birthday with five or more
66 years of creditable service may retire upon written notification to the Board setting forth the date the
67 retirement is to become effective.

68 C. Deferred retirement for members terminating service. - Any member who terminates service after
69 five or more years of creditable service, may retire under the provisions of subsection A, B, or D of this
70 section if he has not withdrawn his accumulated contributions prior to the effective date of his
71 retirement or if he has five or more years of creditable service for which his employer has paid the
72 contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any
73 requirements as to the member being in service shall not apply. No member shall be entitled to the
74 benefits of this subsection if his employer certifies that his service was terminated because of dishonesty,
75 malfeasance, or misfeasance in office. The certification may be appealed to the Board.

76 D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his
77 fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement
78 date upon written notification to the Board setting forth the date the retirement is to become effective. A
79 member shall not be eligible for retirement pursuant to this subsection unless the member has entered
80 into a binding agreement with the Department of Personnel and Training providing that the member
81 shall not thereafter reenter into full-time or part-time employment with any agency in the executive
82 branch of the Commonwealth for a period of two years following retirement.

83 E. Effective date of retirement. - The effective date of retirement shall be after the last day of service
84 of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

85 F. Notification on behalf of member. - If the member is physically or mentally unable to submit
86 written notification of his intention to retire, the member's appointing authority may submit notification
87 on his behalf.

88 § 51.1-217. Service retirement allowance.

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

90 1. Normal retirement. - The allowance shall equal 1.50 percent of the first \$13,200 of average final
91 compensation plus 1.65 percent of average final compensation in excess of \$13,200 multiplied by the
92 amount of creditable service. If the member is credited with thirty-five or more years of service, he shall
93 receive 1.65 percent of his average final compensation multiplied by the amount of creditable service.

94 On and after October 1, 1994, employee who is a member or beneficiary of a retirement system
95 administered by the Board shall receive an additional retirement allowance equal to three percent of the
96 service or disability retirement allowance payable under this section. Average final compensation
97 attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General
98 Assembly shall not be included in computing this additional retirement allowance.

99 2. Early retirement. - The allowance shall be determined in the same manner as for normal
100 retirement with creditable service and average final compensation being determined as of the date of
101 actual retirement. If the member has less than twenty-five years of service at retirement, the amount of
102 the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the
103 actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or
104 after his fiftieth birthday on which he would have completed a total of twenty-five years of creditable
105 service.

106 3. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the
107 greater of (i) the amount the member would receive if he had he taken early retirement or (ii) the
108 actuarially calculated present value of the member's accumulated contributions, including accrued
109 interest.

110 B. In addition to the allowance payable under subsection A of this section, a member shall receive
111 an additional allowance equal to \$8,952 annually from date of retirement until his sixty-fifth birthday.

112 Such allowance shall be reviewed and adjusted by the Board biennially to an amount recommended
113 by the actuary of the Virginia Retirement System based upon increases in social security benefits in the
114 interim. This subsection shall not apply to the following: (i) any member who qualifies for retirement
115 under subsection C of § 51.1-216 and is credited with less than twenty years' service rendered in a
116 hazardous position or (ii) any member employed initially on or after July 1, 1974, who is credited with
117 less than twenty years' service rendered in a hazardous position.

118 C. If a beneficiary of a service retirement allowance under this chapter is at any time in service as
119 an employee in a position covered for retirement purposes under the provisions of this or any chapter
120 other than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so
121 employed.

§ 51.1-218. *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 at any time 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.

B. If a member dies in service and if no benefits are payable under subsection C, 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. 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 fiftieth birthday at his date of death, it shall be assumed that the member's age at his date of death is fifty for the purpose of reducing the benefit on an actuarial equivalent basis. If a member dies after attaining his sixtieth birthday, the allowance shall equal the decreased 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 subsection B of § 51.1-217 shall not apply. If the person elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions shall be paid to the person exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member.

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

The retirement allowance, payable hereunder to a qualifying survivor, shall be the annual amount which when added to the compensation payable under the Virginia Workers' Compensation Act for the death of the member, shall equal fifty percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on

183 *the date of the death of the member. If the survivor qualifies for death benefits under the provisions of*
184 *the Social Security Act in effect on the date of the death of the member, the allowance payable from the*
185 *retirement system when added to the compensation payable under the Virginia Workers' Compensation*
186 *Act shall equal thirty-three and one-third percent of the member's average final compensation.*

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

191 *§ 51.1-219. Post-retirement supplements.*

192 *In computing the amount of any post-retirement supplements, any additional allowances being paid*
193 *under the provisions of subsection B of § 51.1-217 shall be disregarded.*

194 *§ 51.1-220. Disability as the result of felonious misconduct of another.*

195 *Any member in service who is totally and permanently disabled while on active duty as the result of*
196 *the felonious misconduct of another may retire for disability as provided in subsection B of § 51.1-156*
197 *and shall be entitled to maintenance and services at or under the supervision of the Woodrow Wilson*
198 *Rehabilitation Center without being liable to pay for the same.*

199 *§ 51.1-221. Disability benefit.*

200 *Any member in service who (i) is credited with at least twenty years of service in a hazardous duty*
201 *position and (ii) meets the (a) requirements for a disability retirement allowance under § 51.1-156 and*
202 *(b) minimum age requirements of § 51.1-216 may elect to receive the higher of the disability retirement*
203 *allowance payable under Article 9 (§ 51.1-152 et seq.) of Chapter 1 of this title or the service*
204 *retirement allowance payable under § 51.1-217 less any reduction in allowance required by subsection*
205 *C of § 51.1-157 or § 51.1-158.*