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## SENATE BILL NO. 883

Offered January 8, 2003

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*A BILL to amend and reenact § 51.1-124.3 of the Code of Virginia, relating to the percentage of average final compensation used for purposes of determining retirement allowances.*

Patrons—Wampler and Puckett

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.1-124.3 of the Code of Virginia is amended and reenacted 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"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.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.

1. If a member served in a position as a state employee as defined in this section, including members of the State Police Officers' Retirement System pursuant to Chapter 2 (§ 51.1-200 et seq.) of this title, the Virginia Law Officers' Retirement System pursuant to Chapter 2.1 (§ 51.1-211 et seq.) of this title and the Judicial Retirement System pursuant to Chapter 3 (§ 51.1-300 et seq.) of this title, between December 1, 2001, and November 30, 2004, inclusive, then his average final compensation shall be adjusted, under the following conditions, as follows:

a. Any member described in subdivision 1 who retired on an immediate annuity from a covered position as an employee of the Commonwealth with an effective retirement date between December 1, 2001, and November 30, 2002, inclusive, shall have his average final compensation multiplied by 1.01011 prior to the calculation of the retirement allowance payable under this title. The Retirement System shall recalculate the retirement allowance payable to those members who retired between such dates and the increase in the retirement allowance shall not be applied on a retroactive basis but shall begin with the month of July 2003.

b. Any member described in subdivision 1 who (1) has been in continuous service since July 1, 2002, and (2) retires on an immediate annuity from a covered position as an employee of the Commonwealth with an effective retirement date between December 1, 2002, and November 30, 2003, inclusive, shall have his average final compensation multiplied by 1.0303 prior to the calculation of the retirement allowance payable under this title. The Retirement System shall recalculate the retirement allowance payable to those members who retired between December 1, 2002, and June 30, 2003, inclusive, and the increase in the retirement allowance shall not be applied on a retroactive basis but shall begin with the month of July 2003.

c. Any member described in subdivision 1 who has been in continuous service since July 1, 2002, and who retires on an immediate annuity from a covered position as an employee of the Commonwealth with an effective retirement date between December 1, 2003, and November 30, 2004, inclusive, shall have his average final compensation multiplied by 1.06121 prior to the calculation of the retirement allowance payable under this title.

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59 d. Any member described in subdivision 1 who has been in continuous service since July 1, 2002,  
60 and who retires on an immediate annuity from a covered position as an employee of the Commonwealth  
61 with an effective retirement date on or after December 1, 2004, shall have his average final  
62 compensation multiplied by 1.10366 prior to the calculation of the retirement allowance payable under  
63 this title.

64 2. If a member served in a covered position for retirement purposes under this chapter between  
65 December 1, 2001, and November 30, 2004, inclusive, as an employee of a locality participating in the  
66 Virginia Retirement System, then his average final compensation shall be adjusted, under the following  
67 conditions, as follows:

68 a. Any member described in subdivision 2 who retired on an immediate annuity from a covered  
69 position as an employee of a locality participating in the Virginia Retirement System, with an effective  
70 retirement date between December 1, 2001, and November 30, 2002, inclusive, shall have his average  
71 final compensation multiplied by 1.01011 if such locality did not provide a general salary increase for  
72 its employees during such period.

73 b. Any member described in subdivision 2 who (1) has been in continuous service since July 1, 2002,  
74 and (2) retires on an immediate annuity from a covered position as an employee of a locality  
75 participating in the Virginia Retirement System, with an effective retirement date between December 1,  
76 2002, and November 30, 2003, inclusive, shall have his average final compensation adjusted as follows:

77 (1). If the locality did not provide a general salary increase for its employees during the period  
78 December 1, 2001, through November 30, 2003, inclusive, then his average final compensation shall be  
79 multiplied by 1.0303 prior to the calculation of the retirement allowance payable under this title.

80 (2). If the locality provided a general salary increase for its employees during either the period  
81 December 1, 2001, through November 30, 2002, inclusive, or the period December 1, 2002, through  
82 November 30, 2003, inclusive, but did not provide a general salary increase during both periods, then  
83 his average final compensation shall be multiplied by 1.01011 prior to the calculation of the retirement  
84 allowance payable under this title.

85 (3). If the locality provided a general salary increase for its employees during the period December  
86 1, 2001, through November 30, 2002, inclusive, and during the period December 1, 2002, through  
87 November 30, 2003, inclusive, then his average final compensation shall not be adjusted.

88 c. Any member described in subdivision 2 who (1) has been in continuous service since July 1, 2002,  
89 and (2) retires on an immediate annuity from a covered position as an employee of a locality  
90 participating in the Virginia Retirement System, with an effective retirement date between December 1,  
91 2003, and November 30, 2004, inclusive, shall have his average final compensation adjusted as follows:

92 (1). If the locality did not provide a general salary increase for its employees during the period  
93 December 1, 2001, through November 30, 2004, inclusive, then his average final compensation shall be  
94 multiplied by 1.06121 prior to the calculation of the retirement allowance payable under this title.

95 (2). If the locality provided a general salary increase for its employees during only 1 of the  
96 following periods: (i) the period December 1, 2001, through November 30, 2002, inclusive, (ii) the  
97 period December 1, 2002, through November 30, 2003, inclusive, or (iii) the period December 1, 2003,  
98 through November 30, 2004, inclusive, then his average final compensation shall be multiplied by  
99 1.0303 prior to the calculation of the retirement allowance payable under this title.

100 (3). If the locality provided a general salary increase for its employees during any 2 of the following  
101 periods: (i) the period December 1, 2001, through November 30, 2002, inclusive, (ii) the period  
102 December 1, 2002, through November 30, 2003, inclusive, or (iii) the period December 1, 2003, through  
103 November 30, 2004, inclusive, then his average final compensation shall be multiplied by 1.01011 prior  
104 to the calculation of the retirement allowance payable under this title.

105 (4). If the locality provided a general salary increase for its employees during all of the following  
106 periods: (i) the period December 1, 2001, through November 30, 2002, inclusive, (ii) the period  
107 December 1, 2002, through November 30, 2003, inclusive, and (iii) the period December 1, 2003,  
108 through November 30, 2004, inclusive, then his average final compensation shall not be adjusted.

109 d. Any member described in subdivision 2 who (1) has been in continuous service since July 1, 2002,  
110 and (2) retires on an immediate annuity from a covered position as an employee of a locality  
111 participating in the Virginia Retirement System, with an effective retirement date on or after December  
112 1, 2004, shall have his average final compensation adjusted as follows:

113 (1). If the locality did not provide a general salary increase for its employees during the period  
114 December 1, 2001, through November 30, 2004, inclusive, then his average final compensation shall be  
115 multiplied by 1.10366 prior to the calculation of the retirement allowance payable under this title.

116 (2). If the locality provided a general salary increase for its employees during only 1 of the  
117 following periods: (i) the period December 1, 2001, through November 30, 2002, inclusive, (ii) the  
118 period December 1, 2002, through November 30, 2003, inclusive, or (iii) the period December 1, 2003,  
119 through November 30, 2004, inclusive, then his average final compensation shall be multiplied by  
120 1.06121 prior to the calculation of the retirement allowance payable under this title.

(3). If the locality provided a general salary increase for its employees during any 2 of the following periods: (i) the period December 1, 2001, through November 30, 2002, inclusive, (ii) the period December 1, 2002, through November 30, 2003, inclusive, or (iii) the period December 1, 2003, through November 30, 2004, inclusive, then his average final compensation shall be multiplied by 1.0303 prior to the calculation of the retirement allowance payable under this title.

(4). If the locality provided a general salary increase for its employees during all of the following periods: (i) the period December 1, 2001, through November 30, 2002, inclusive, (ii) the period December 1, 2002, through November 30, 2003, inclusive, and (iii) the period December 1, 2003, through November 30, 2004, inclusive, then his average final compensation shall not be adjusted.

For any such employee meeting the conditions under subdivision 2 who retired between December 1, 2001, and June 30, 2003, inclusive, the Retirement System shall recalculate the retirement allowance payable to such persons and the increase in the retirement allowance shall not be applied on a retroactive basis but shall begin with the month of July 2003.

3. For any employee described under subdivision 1 or subdivision 2, "continuous service" means continuous service since July 1, 2002, under a covered position as an employee, including covered positions under the State Police Officers' Retirement System pursuant to Chapter 2 (§ 51.1-200 et seq.) of this title, the Virginia Law Officers' Retirement System pursuant to Chapter 2.1 (§ 51.1-211 et seq.) of this title, and the Judicial Retirement System pursuant to Chapter 3 (§ 51.1-300 et seq.) of this title. For purposes of subdivision 1, "an employee of the Commonwealth" does not include a member retiring from a covered position as a local officer or as an employee of a political subdivision of the Commonwealth.

"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 §§ 30-19.11 and 30-19.12 shall be deemed creditable compensation. 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.

"Creditable service" means prior service as set forth in § 51.1-142.2 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.

"General salary increase" means an increase in the base salaries of employees that is generally applicable for all employees, and includes salary increases that are made conditional upon employees meeting the expectations of their employment. Bonuses or other one-time benefits that (i) do not increase the base salaries of employees for future years of service or (ii) are not permanent in nature shall not be considered general salary increases.

"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.

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

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

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

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

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

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

182 "Purchase of service contract" means a contract entered into by the member and the Retirement  
183 System for the purchase of service credit by the member as provided in § 51.1-142.2.

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

185 "Retirement System" means the Virginia Retirement System.

186 "Service" means service as an employee.

187 "State employee" means any person who is regularly employed full time on a salaried basis, whose  
188 tenure is not restricted as to temporary or provisional appointment, in the service of, and whose  
189 compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or  
190 any department, institution, or agency thereof. "State employee" shall include the Governor, Lieutenant  
191 Governor, Attorney General, and members of the General Assembly but shall not include (i) any local  
192 officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) individuals employed by  
193 the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv) any member of the State  
194 Police Officers' Retirement System, (v) any member of the Judicial Retirement System, or (vi) any  
195 member of the Virginia Law Officers' Retirement System.

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

198 **2. That in the event that a general salary increase is provided by the Commonwealth to state**  
199 **employees prior to December 1, 2003, or prior to December 1, 2004, the Board of Trustees of the**  
200 **Virginia Retirement System, after consultation with the Chairmen of the Senate Finance**  
201 **Committee and the House Appropriations Committee, may lower the average final compensation**  
202 **adjustment factors set forth in this act for employees who retired on or after December 1, 2003,**  
203 **from a covered position (i) as a state employee under the Virginia Retirement System or (ii) as an**  
204 **employee under the State Police Officers' Retirement System, Judicial Retirement System, or the**  
205 **Virginia Law Officers' Retirement System.**

206 **3. That all localities participating in the Virginia Retirement System on or after December 1, 2001,**  
207 **shall provide a written report to the Virginia Retirement System no later than December 1, 2003,**  
208 **indicating whether or not the locality provided a general salary increase, as defined in this act, to**  
209 **its employees during each of the following periods: (i) the period December 1, 2001, through**  
210 **November 30, 2002, inclusive, and (ii) the period December 1, 2002, through November 30, 2003,**  
211 **inclusive. Such localities shall also provide a written report to the Virginia Retirement System no**  
212 **later than December 1, 2004, indicating whether or not the locality provided a general salary**  
213 **increase to its employees during the period December 1, 2003, through November 30, 2004,**  
214 **inclusive.**