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SENATE BILL NO. 431

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact § 51.1-142.2 of the Code of Virginia, relating to crediting certain state employees with retirement service credit for fiscal years for which there is no general salary increase.

Patron—Wagner

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 51.1-142.2 of the Code of Virginia is amended and reenacted as follows:**

§ 51.1-142.2. Prior service or membership credit for certain members; service credit for accumulated sick leave.

Certain members may purchase credit for service as provided in this section.

A. 1. In order to receive credit for the service made available in subsection B, a member in service shall be required to make a payment. For each year, or portion thereof, to be credited at the time of purchase, a member shall pay an amount equal to five percent of his creditable compensation or five percent of his average final compensation, whichever is greater. However, if a person becoming a member on or after July 1, 2001, does not purchase, or enter into a purchase of service contract for, such service within three years from his first date of hire or within three years of the final day of any leave of absence under subdivision B 3, as applicable, then, for each year to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost.

2. If a member in service on June 30, 2001, and July 1, 2001, did not, prior to July 1, 2001, purchase, or enter into a contract with the Retirement System to purchase, such service under former § 51.1-142, then, for each year, or portion thereof, to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost, unless such member purchases, or enters into a purchase of service contract for, such service within three years from the date he became eligible to purchase the service or by July 1, 2004, whichever is later. If the service is purchased or a purchase of service contract is entered into within such time period, the cost to the member for each year to be credited at the time of purchase shall be five percent of his creditable compensation or five percent of his average final compensation, whichever is greater. If such member first becomes eligible to purchase any of the service under subsection B after July 1, 2001, the cost of such service or portion thereof shall be as provided in subsection A, except that the three-year period in which to purchase, or enter into a purchase of service contract for, such service shall commence on the first day the member becomes eligible to purchase the service.

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

Any employer may elect to pay an equivalent amount in lieu of all member contributions required of its employees for the purpose of service credit pursuant to this section. These contributions shall not be considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.) of this title, nor shall they be considered to be salary for purposes of this chapter.

B. 1. Any member in service may purchase prior service credit for (i) active duty military service in the armed forces of the United States, provided that the discharge from the armed forces was not dishonorable, (ii) creditable service of another state or of a political subdivision or public school system of this or another state, as certified by such state, political subdivision or public school system, (iii) creditable service of a political subdivision of this state not credited to the member under an agreement as provided for in § 51.1-143.1, as certified by such political subdivision, (iv) civilian service of the United States, or (v) any period of time when the member was employed by a participating employer and not otherwise eligible to participate in the retirement system because the member was not an employee as defined in § 51.1-124.3.

2. Any member (i) granted a leave of absence for educational purposes may purchase service credit

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59 for such leave of absence; or (ii) granted any unpaid leave of absence due to the birth or adoption of a
60 child may purchase up to one year of service credit per occurrence of leave.

61 C. Any member in service may purchase service credit for creditable service lost from ceasing to be
62 a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated
63 contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall
64 be five percent of his creditable compensation or five percent of his average final compensation,
65 whichever is greater. If the member either purchases or enters into a contract to purchase such service
66 within three years of the date he became eligible to purchase the service or by July 1, 2004, whichever
67 is later, then the service may be purchased in a lump sum at the time of purchase or through an
68 additional payroll deduction. Any purchase of such service made at a time later than such period shall
69 be made in a lump sum at the time of purchase.

70 D. Any member in service may purchase service credit for accumulated sick leave on his effective
71 date of retirement based upon such sums as the employer may provide as payment for any unused sick
72 leave balances. The cost of service credit purchased under this subsection shall be the actuarial
73 equivalent cost of such service.

74 E. In any case where member and employer contributions, as required under this chapter, were not
75 made because of an error in the payroll, personnel, or other classification system of a locality
76 participating in the retirement system, service that has not been credited because of such error may be
77 purchased on the following basis:

78 1. The most recent three years of service shall be purchased, using applicable member and employer
79 contribution rates and creditable compensation in effect for such period, in a manner and cost prescribed
80 by the Board; and

81 2. All other years of service shall be purchased at an actuarial equivalent cost.

82 F. The service credit to be credited to a member under this section shall be calculated at the ratio of
83 one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased,
84 except for part-time service purchased under clause (v) of subdivision B 1 which shall be calculated at
85 the ratio of one month of service credit for each 173 hours of service as certified by the employer and
86 as purchased by the member. Up to a maximum of four years of service credit may be purchased for
87 each of clauses (i) through (v) of subdivision B 1 and clause (i) and (ii) of subdivision B 2. In addition,
88 a member in service may purchase service credit for every year or portion thereof for service lost from
89 cessation of membership as described in subsection C.

90 Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service
91 credit made available under this section may not be purchased if, before being purchased or at the time
92 of such purchase pursuant to this section, the service to be purchased is service that is included in the
93 calculation of any retirement allowance received or to be received by the member from this or another
94 retirement system.

95 G. Any member may receive credit at no cost for service rendered in the armed forces of the United
96 States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from
97 the armed forces was not dishonorable, (iii) the member has not withdrawn his accumulated
98 contributions, and (iv) the member reenters service in a covered position within one year after discharge
99 from the armed forces. In order to receive such service, the member must complete such forms and
100 other requirements as are required by the Board and the retirement system.

101 H. *For any fiscal year that the Commonwealth does not provide a general salary increase for state*
102 *employees, each such state employee shall be credited, at no cost, with up to 12 months of creditable*
103 *service. The amount of service credit to be credited to each such employee shall equal the number of*
104 *months that the person was in service as a state employee for the fiscal year for which there was no*
105 *general salary increase, rounded up to the nearest whole month. Any state employee retiring in a fiscal*
106 *year for which there was no general salary increase shall have his retirement allowance adjusted to*
107 *reflect the service credit provided herein.*

108 *The service credit under this subsection shall be in addition to retirement service credited to state*
109 *employees for service to the Commonwealth as an employee. The service credited under this subsection*
110 *shall be considered membership service.*

111 *For purposes of this subsection:*

112 *"General salary increase" means a general increase in the base salaries of state employees, and*
113 *includes salary increases that are made conditional upon a state employee meeting the expectations of*
114 *his employment. Bonuses or other benefits that do not automatically increase the base salaries of state*
115 *employees shall not be considered general salary increases under this subsection.*

116 *"State" employee" means a state employee as defined in § 51.1-124.3 who is an active member in the*
117 *Virginia Retirement System, but shall also include members of the State Police Officers' Retirement*
118 *System, Judicial Retirement System, and the Virginia Law Officers' Retirement System.*

119 **2. That the provisions of this act are applicable for any fiscal year of the Commonwealth**
120 **beginning on or after July 1, 2004, in which there is no general salary increase. #**