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SENATE BILL NO. 232

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on February 2, 2010)

(Patron Prior to Substitute—Senator Watkins)

A BILL to amend and reenact §§ 51.1-124.3, 51.1-153, and 51.1-301 of the Code of Virginia, relating to the early and normal retirement ages for members of the Virginia Retirement System.

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3, 51.1-153, and 51.1-301 of the Code of Virginia are 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"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.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, 1980, 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 36 highest consecutive months of creditable service or during the entire period of his creditable service if less than 36 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. For any state employee of a public institution of higher education or a teaching hospital affiliated with a public institution of higher education who is (i) compensated on a salaried basis, and (ii) working full time in a covered position pursuant to a contract of employment for a period of at least nine months, creditable compensation means the full compensation payable over the term of any contract entered into between the employee and the employer, without regard to whether or not the term of the contract coincides with the normal scholastic year. However, if the contract is for more than one year, creditable compensation means that compensation paid for the current year of the contract.

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.

"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.

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

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

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

64 "Normal retirement date" means a member's sixty-fifth birthday. *However, for any member who (i)*  
65 *rendered service in a covered position prior to July 1, 2010, but who had no prior service credit at the*  
66 *time of first commencing reemployment in a covered position on or after July 1, 2010, or (ii) did not*  
67 *render service in a covered position prior to July 1, 2010, such member's normal retirement date shall*  
68 *be the date that the member attains his "retirement age" as defined under the Social Security Act (42*  
69 *U.S.C. § 416 et seq., as now or hereafter amended).*

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

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

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

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

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

82 "Retirement System" means the Virginia Retirement System.

83 "Service" means service as an employee.

84 "State employee" means any person who is regularly employed full time on a salaried basis, whose  
85 tenure is not restricted as to temporary or provisional appointment, in the service of, and whose  
86 compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or  
87 any department, institution, or agency thereof. "State employee" shall include any faculty member, but  
88 not including adjunct faculty, of a public institution of higher education (a) who is compensated on a  
89 salary basis, (b) whose tenure is not restricted as to temporary or provisional appointment, and (c) who  
90 regularly works at least 20 hours but less than 40 hours per week (or works the equivalent of one-half  
91 of a full time equivalent position) engaged in the performance of teaching, administrative, or research  
92 duties at such institution; such faculty member shall be deemed an eligible employee for purposes of the  
93 retirement provisions under §§ 51.1-126, 51.1-126.1, and 51.1-126.3. "State employee" shall also include  
94 the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly but shall  
95 not include (i) any local officer, (ii) any employee of a political subdivision of the Commonwealth, (iii)  
96 individuals employed by the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv)  
97 any member of the State Police Officers' Retirement System, (v) any member of the Judicial Retirement  
98 System, or (vi) any member of the Virginia Law Officers' Retirement System.

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

101 § 51.1-153. Service retirement.

102 A. Normal retirement. - Any member in service at his normal retirement date with five or more years  
103 of creditable service may retire at any time upon written notification to the Board setting forth the date  
104 the retirement is to become effective. Any member in service who was denied membership prior to July  
105 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his  
106 normal retirement date and the requirement of having five or more years of service shall not apply.

107 B. Early retirement. - 1. ~~Any~~ *Subject to the provisions of subdivision 3, any* member in service who  
108 has attained his fifty-fifth birthday with five or more years of creditable service may retire prior to his  
109 normal retirement date upon written notification to the Board setting forth the date the retirement is to  
110 become effective.

111 2. ~~Any~~ *Subject to the provisions of subdivision 3, any* state employee, teacher, or employee of a  
112 political subdivision who is a member of the retirement system may retire prior to his normal retirement  
113 date after attaining age fifty and thirty years of creditable service, upon written notification to the Board  
114 setting forth the date the retirement is to become effective. The benefit for such member shall be  
115 calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.

116 3. *No member in service who (i) rendered service in a covered position prior to July 1, 2010, but*  
117 *who had no prior service credit at the time of first commencing reemployment in a covered position on*  
118 *or after July 1, 2010, or (ii) did not render service in a covered position prior to July 1, 2010, shall be*  
119 *allowed to retire prior to his normal retirement date unless the member has attained his early*  
120 *retirement age and is credited with at least five years of creditable service. For the purposes of this*  
121 *subdivision, "early retirement age" means a member's early retirement age for an old-age insurance*

122 benefit, as defined and provided under the Social Security Act (42 U.S.C. § 416 et seq., as now or  
123 hereafter amended).

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

133 D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his  
134 fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement  
135 date upon written notification to the Board setting forth the date the retirement is to become effective.  
136 *No member who (i) rendered service in a covered position prior to July 1, 2010, but who had no prior*  
137 *service credit at the time of first commencing reemployment in a covered position on or after July 1,*  
138 *2010, or (ii) did not render service in a covered position prior to July 1, 2010, shall be allowed to*  
139 *retire pursuant to this subsection.*

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

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

145 § 51.1-301. Definitions.

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

147 "Appointing authority" means the General Assembly or the Governor.

148 "Creditable service" means prior service plus membership service, as further defined in and modified  
149 by § 51.1-303, for which credit is allowable under this chapter.

150 "Judge" means any justice or judge of a court of record of the Commonwealth, any member of the  
151 State Corporation Commission or Virginia Workers' Compensation Commission, any judge of a district  
152 court of the Commonwealth other than a substitute judge of such district court, and any executive  
153 secretary of the Supreme Court assuming such position between December 1, 1975, and January 31,  
154 1976.

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

156 "Previous systems" means the systems established under the provisions of Chapters 2 (§ 51-3 et seq.)  
157 and 2.2 (§ 51-29.8 et seq.) of Title 51, and, in the case of judges of regional juvenile and domestic  
158 relations courts, the Virginia Retirement System.

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

163 "Retirement system" means the Judicial Retirement System.

164 "Service" means service as a judge.