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**HOUSE BILL NO. 1794**

Offered January 12, 2011

Prefiled January 11, 2011

*A BILL to amend and reenact § 51.1-124.9 of the Code of Virginia, authorizing the Virginia Retirement System to collect certain benefit overpayments from employers.*

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Patron—Tata

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Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:****1. That § 51.1-124.9 of the Code of Virginia is amended and reenacted as follows:**

§ 51.1-124.9. Changes or errors in records resulting in erroneous payments; employer liability.

A. 1. If any change or error in records results in any member or beneficiary receiving more or less than he would have been entitled to receive from the Retirement System had the records been correct, the Board shall, *subject to the provisions of subsection B*, correct the error and as far as practicable adjust the payments so that the actuarial equivalent of the correct benefit shall be paid.

2. If a member has been overpaid through no fault of his and could not reasonably have been expected to detect the error the Board may waive any repayment which it believes would cause hardship.

3. Upon determination that any person has erroneously been included in membership in the Retirement System, accumulated contributions resulting from the erroneous membership shall be refunded.

B. *The Board is authorized to recover any overpayments, from an employer found to be responsible for such overpayments, to a member or beneficiary (i) whose average final compensation exceeds the limitation in § 51.1-152, (ii) who receives in-service distributions because the member or beneficiary is rehired by the employer without either a bona fide break in service, as determined by the Board, following retirement, or the break in service required under subdivision B 3 (a) of § 51.1-155, or (iii) who the Board determines was in service as an employee covered for retirement purposes as prohibited by subdivision B 1 of § 51.1-155.*

INTRODUCED

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