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## SENATE JOINT RESOLUTION NO. 371

Offered January 17, 2011

*Proposing an amendment to Section 11 of Article X of the Constitution of Virginia, relating to contributions to defined benefit retirement plans maintained for state employees and certain local employees.*

Patrons—Howell, Barker, Deeds, Edwards, Northam, Puckett and Whipple

Referred to Committee on Privileges and Elections

RESOLVED by the Senate, the House of Delegates concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 11 of Article X of the Constitution of Virginia as follows:

## ARTICLE X

## TAXATION AND FINANCE

Section 11. Governmental employees retirement system.

(a) The General Assembly shall maintain a retirement system for state employees and employees of participating political subdivisions and school divisions. The funds of the retirement system shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the members and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the retirement system. Such trust funds shall be invested as authorized by law. Retirement system benefits shall be funded using methods which are consistent with generally accepted actuarial principles *and reflective of current benefits provided under law.*

(b) (1) *Contributions to defined benefit retirement plans established by the General Assembly and maintained for state employees and employees of participating political subdivisions and school divisions shall be paid in strict adherence with the contribution rates and times for the payment of such contributions, as recommended by the Board of Trustees of the Virginia Retirement System or by any successor body or agency to the Board, based upon contribution rates determined by its official actuary. The Board or any successor shall recommend contribution rates that are reasonably anticipated to ensure the payment of retirement benefits, refunds, and administrative expenses that are provided under law. The Board or any successor shall transmit the contribution requirements in writing to the Governor and the General Assembly and participating political subdivisions and school divisions, as applicable, within the time frames required by law.*

(2) *Notwithstanding any other provision of this subsection, the General Assembly may set contribution rates that are not in strict adherence to the contribution rates recommended by the Board or any successor for any or all of the Commonwealth's fiscal years beginning on or after July 1, 2012, but not including any fiscal year beginning on or after July 1, 2018.*

*No deferral of contributions shall be deemed to have occurred under this subsection for (i) the fiscal year beginning on July 1, 2012, or July 1, 2013, so long as the contribution rate set for the applicable defined benefit retirement plan for the fiscal year is at least equal to 75 percent of the contribution rate recommended by the Board or any successor; (ii) the fiscal year beginning on July 1, 2014, or July 1, 2015, so long as the contribution rate set for the applicable defined benefit retirement plan for the fiscal year is at least equal to 84 percent of the contribution rate recommended by the Board or any successor; or (iii) the fiscal year beginning on July 1, 2016, or July 1, 2017, so long as the contribution rate set for the applicable defined benefit retirement plan for the fiscal year is at least equal to 92 percent of the contribution rate recommended by the Board or any successor.*

*The General Assembly by a recorded affirmative vote of a majority of the members voting in each house may set contribution rates less than the applicable minimum percentage herein. However, to the extent that the General Assembly sets a contribution rate that is less than the applicable minimum percentage herein, then the difference between the amount reasonably estimated to be contributed using such minimum percentage and the amount reasonably estimated to be contributed using the contribution rate set by the General Assembly shall be deemed a deferral of contributions that shall be repaid under subsection (f). The vote shall be a separate vote and the question to be voted on shall be whether to*

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59 provide for the deferral of contributions for the fiscal year or years, and the question shall include the  
60 total amount of contributions reasonably estimated to be deferred for the fiscal year or years.

61 (c) (1) For purposes of such contribution rates for such defined benefit retirement plans, the  
62 amortization period for the payment of retirement obligations relating to such plans shall be the  
63 amortization period as set by the General Assembly, which period shall not exceed 30 years.

64 However, if generally accepted actuarial principles or generally accepted accounting principles  
65 establish an amortization period for the payment of retirement obligations under defined benefit  
66 retirement plans that is shorter than the amortization period established by the General Assembly, then  
67 for purposes of such contribution rates the Board or any successor shall use the longest amortization  
68 period that (i) is in accordance with generally accepted actuarial principles or generally accepted  
69 accounting principles and (ii) does not exceed the amortization period established by the General  
70 Assembly.

71 (2) All other factors or variables generally used in setting such contribution rates including but not  
72 limited to inflation rates, life expectancies, and forecasts of increases in compensation shall be  
73 determined by the Board or any successor in consultation with its official actuary.

74 The actuarial rate of return on the investment of such contributions that is assumed by the Board or  
75 any successor shall be consistent with the assumed actuarial rates of return on the investment of defined  
76 benefit retirement contributions currently being used by all other states having general obligation bonds  
77 currently graded with the highest grade given by all nationally recognized credit rating agencies and  
78 having defined benefit retirement plans covering state employees. The actuarial rate of return on  
79 investment assumed by the Board or any successor shall be a rate of return that would have been  
80 reasonably determined by a professional actuary under the same prevailing conditions.

81 (d) Notwithstanding the provisions of subdivision (1) of subsection (b), the General Assembly may  
82 provide for the deferral of all or any portion of the required contributions to any or all of such defined  
83 benefit retirement plans for any fiscal year beginning on or after July 1, 2018, in which the General  
84 Assembly has appropriated the maximum amount allowed for transfer from the Revenue Stabilization  
85 Fund pursuant to Article X, Section 8, of this Constitution. Any such deferral shall require a recorded  
86 affirmative vote of a majority of the members voting in each house. The vote by the General Assembly  
87 shall be a separate vote and the question to be voted on shall be whether to provide for the deferral of  
88 contributions for such fiscal year, and the question shall include the total amount of contributions  
89 reasonably estimated to be deferred for the fiscal year.

90 (e) Retirement contributions deferred in 2010 as described under paragraph 1 5 of Item 469 of  
91 Chapter 874 of the Acts of Assembly of 2010 shall be repaid pursuant to subsection (f), except that the  
92 total amount of contributions deferred shall be repaid no later than June 30, 2022.

93 (f) All contributions deferred pursuant to subsection (b) or (d) shall be repaid with interest to the  
94 applicable defined benefit retirement plan within the 10-year period immediately following the last day  
95 of the fiscal year in which the deferral occurred. The amount repaid each fiscal year shall not be less  
96 than one-tenth of the total contributions deferred in the year of deferral until the total amount of  
97 contributions deferred in the year of deferral have been repaid. The annual interest rate shall be equal  
98 to the current actuarially calculated long-term rate of return for the defined benefit retirement plans  
99 described in subdivision (1) of subsection (b).

100 (g) Nothing in this section shall be construed or interpreted to prohibit the funding of contributions  
101 to defined benefit retirement plans established by the General Assembly at contribution rates that are  
102 greater than the contribution rates recommended by the Board or any successor.

103 (h) The retirement system shall be subject to restrictions, terms, and conditions as may be prescribed  
104 by the General Assembly.