

# VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

## CHAPTER 508

An Act to amend and reenact §§ 51.1-142.2 and 51.1-142.3 of the Code of Virginia, relating to the Virginia Retirement System; prior service or membership credit.

[H 1890]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-142.2 and 51.1-142.3 of the Code of Virginia are 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. Except as provided in subdivisions 1 and 2, 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, equal to five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing the service made available in subsection B through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation.

1. A person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013, shall pay an amount equal to a rate approximating the normal cost for the retirement program under which the member is covered, with such rate for each retirement program to be determined by the Board, and reviewed by the Board no less than every six years. However, if the member does not purchase, or enter into a purchase of service contract for the service made available in subsection B within one year from his first date of hire or within one year of the final day of any leave of absence under subdivision B 2, as applicable, 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.

2. If a member other than a member described in subdivision 1 does not purchase, or enter into a purchase of service contract for, the service made available in subsection B 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 2, as applicable, 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.

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. Any number of additional deductions may be permitted at any time. Should any 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 full or partial months of service for which full payment is made. If any 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.), 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 from the following categories of service or leave: (i) active duty military service in the armed forces of the United States, provided that the discharge from a period of active duty status with the armed forces was not dishonorable; (ii) creditable leave of absence for educational purposes that was previously approved by the member's employer; (ii) leave of absence for a serious health condition of the member or of an immediate family member, all as defined in the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq., as amended, and previously certified by the member's employer; (iii) up to one year of service credit per occurrence of leave for any unpaid leave of absence due to the birth, adoption, or death of a qualified child, as defined in § 51.1-500; (iv) service as a full-time employee of another state or of a public school system of another state, or a political subdivision or public school system of this the Commonwealth or another state, as certified by such state, public school system, or political subdivision or public school system (iii) creditable; (v) full-time 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) (vi) civilian service of the United States; (v) (vii) full-time service at a

private institution of higher education if the private institution is merged with a public institution of higher education and graduates of the private institution are then issued new degrees from the public institution; or ~~(vi)~~ (viii) any period of time when the member was employed *part time or in a wage position* 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. *However, no member in service shall be allowed to purchase more than a total of four years of service credit pursuant to this subdivision.*

2. *In addition to the service credit that may be purchased under subdivision 1, any member in service may purchase up to four years of service credit for prior active duty military service in the armed forces of the United States, provided that the discharge from a period of active duty status with the armed forces was not dishonorable.*

3. *The service credit to be credited to a member under this subsection shall be calculated at the ratio of one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased, except for employment service purchased under clause (viii) of subdivision 1, which shall be calculated at the ratio of one month of service credit for each 173 hours of service as certified by the employer.*

*For each year or portion thereof to be credited at the time of purchase under this subsection, the member shall pay the approximate normal cost of the retirement plan under which the member is covered at the time of such purchase, as determined by the Board in its sole discretion. If the member does not purchase, or enter into a purchase of service credit contract for, the service made available in this subsection within the first 24 months of the member's active service following his first date of hire or the final day of any applicable leave of absence, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay the actuarial equivalent cost. To the extent the member becomes inactive during the 24 months following his first date of hire or the final day of any applicable leave of absence, such periods shall not be included in the 24 months of active service.*

*Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, as amended, no service credit may be purchased under this section if it is included in the calculation of any retirement allowance received or to be received by the member from this or another retirement system, or if there is a balance in a defined contribution account that serves as a primary retirement account related to such service.*

For purposes of this ~~subsection~~ section, "active duty military service" means full-time service of at least 180 consecutive days in the United States Army, Navy, Air Force, Marines, Coast Guard, or reserve components thereof.

2. Any member (i) granted a leave of absence for educational purposes may purchase service credit for such leave of absence, or (ii) granted any unpaid leave of absence due to the birth or adoption of a child may purchase up to one year of service credit per occurrence of leave.

~~C. B.~~ Any member in service may purchase *all prior* service credit for creditable service lost from ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated contributions. ~~Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing such service through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation, provided, however, that the applicable cost for a person enrolled in the hybrid retirement program described in § 51.1-169 shall be four percent. If the member purchases or enters into a contract to purchase such service within three years of the date he became eligible to purchase the service, then the service may be purchased in a lump sum at the time of purchase or through an additional payroll deduction. Any purchase of such service made at a time later than such period shall be made in a lump sum at the time of purchase. For each year or portion thereof to be credited at the time of purchase under this subsection, the member shall pay the withdrawn amount to be purchased plus interest accrued daily and compounded annually from the date of withdrawal to the date of payment at the assumed rate of return established by the Board for the actuarial valuation of the retirement system that is in effect at the time of the purchase. The Board shall develop guidelines and procedures for administering this subsection.~~

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

~~E. D.~~ Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase service credit for service that is not reported to the retirement system by the member's employer while the member is receiving such benefits. ~~Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of the member's creditable compensation.~~

*For each year or portion thereof to be credited at the time of purchase under this subsection, the member shall pay the approximate normal cost of the retirement plan under which the member is*

covered, as determined by the Board in its sole discretion. If the member does not purchase, or enter into a purchase of service credit contract for, any service made available in this subsection within the first 24 months of the member's active service following his first date of hire or the final day of any applicable leave of absence, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay the actuarial equivalent cost. To the extent the member becomes inactive during the 24 months following his first date of hire or the final day of any applicable leave of absence, such periods shall not be included in the 24 months of active service.

E. Payment may be made in a lump sum at the time of purchase or by payroll deduction. Any number of additional deductions may be permitted at any time. Should any deduction be terminated before the member purchases the entire period contracted for, the member shall be credited with the number of full or partial months of service for which full payment has been made. If any deduction is continued after the entire period has been purchased, the member shall be credited with no more than the amount of service for which he was eligible and for which he paid, and the excess amount deducted shall be refunded to the member.

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

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

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

2. All other years of service credit shall be purchased by the employer shall purchase at an actuarial equivalent cost.

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

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

H. Any member may receive credit at no cost for service rendered in the armed forces of the United States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from a period of active duty with the armed forces was not dishonorable, (iii) the member has not withdrawn his accumulated contributions, (iv) the member is not disabled or killed while on leave without pay while performing active duty military service in the armed forces of the United States, and (v) the member reenters service in a covered position within one year after discharge from the armed forces. In order to receive such service, the member must complete such forms and other requirements as are required by the Board and the retirement system.

### **§ 51.1-142.3. Purchase of additional prior service credit by certain school division superintendents.**

A. In addition to the four years of prior service credit that may be purchased under clause ~~(ii)~~ (iv) of subdivision B A 1 of § 51.1-142.2, a school division superintendent appointed by a school board pursuant to § 22.1-60, with at least five years of creditable service in the Retirement System, may purchase up to a maximum of 10 additional years of prior service credit for 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. Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service credit made available under this section may not be purchased if, before being purchased or at the time of such purchase pursuant to this section, the service to be purchased is service that is included in the calculation of any retirement allowance received or to be received by the member from this or any other retirement system.

The school board that has appointed such school division superintendent may purchase such prior service credit on behalf of the school division superintendent.

B. The cost at the time of purchase for each additional year of service credit (or portion thereof) pursuant to this section, shall be 10 percent of the school division superintendent's creditable

compensation or 10 percent of the school division superintendent's average final compensation, whichever is greater, provided that the service credit to be purchased is paid for in one lump-sum payment within one year after the school division superintendent first became eligible to purchase such service credit or by July 1, 2004, whichever is later.

A school division superintendent shall first become eligible to purchase prior service credit under this section as follows:

1. For members in service on June 30, 2003, and July 1, 2003, upon attaining five years of creditable service as a school division superintendent in the Retirement System;

2. For members in service on June 30, 2003, and July 1, 2003, who become a school division superintendent on or after July 1, 2003, upon attaining five years of creditable service as a school division superintendent in the Retirement System; and

3. For members not in service on June 30, 2003, upon the member earning five years of creditable service as a school division superintendent in the Retirement System for service performed after June 30, 2003.

C. In any case in which prior service credit pursuant to this section has been purchased by or on behalf of a school division superintendent, if the school division superintendent, subsequent to the date of such purchase, does not remain in such position with the local school board for at least the number of years purchased: (i) the Retirement System shall reduce the creditable service credited to the school division superintendent by an amount equivalent to the number of years of prior service purchased less the number of years served by the person as a school division superintendent with the local school board subsequent to the date of such purchase. Such reduction in creditable service shall be deemed to be forfeited by the school division superintendent for purposes of this chapter and the contributions representing that forfeited service shall be refunded to the school division superintendent; and (ii) the school division superintendent shall be liable to the local school board for the amount paid by the local school board for purchasing the forfeited prior service credit.

D. If a school division superintendent does not purchase the prior service credit described in subsection A within the timeframe provided in subsection B, such prior service credit may be purchased at the actuarial equivalent cost, provided that in no case shall any person purchase more than 10 years of such prior service credit under this section.

**2. That the provisions of this act shall become effective on January 1, 2017.**