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**HOUSE BILL NO. 1316**

Offered January 14, 2015

Prefiled November 18, 2014

A *BILL to amend and reenact § 51.1-152 of the Code of Virginia, relating to Virginia Retirement System; average final compensation.*

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Patron—Toscano

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Referred to Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:****1. That § 51.1-152 of the Code of Virginia is amended and reenacted as follows:****§ 51.1-152. Limitations on average final compensation.**

A. If an employee receives increases in compensation in the last four years of service ~~which~~ *that* are not related to promotion and ~~which~~ *that* exceed the average increase received by other employees of the same employer holding comparable positions, the excess shall be excluded when computing the average final compensation if the Board finds, after consideration of all circumstances, that the primary purpose of the salary increase was to increase the retirement benefit of the employee. If there are no employees of the same employer holding comparable positions, the increases may be excluded from the average final compensation if they exceed the average percentage increase received by all other employees of the same employer. Creditable compensation assumed to have been received for the purpose of purchasing service shall be excluded from a member's average final compensation.

B. 1. *If, on or after July 1, 2015, an employee receives increases in compensation in the last four years of service that are related to promotion or a new position, and the employee's new compensation exceeds 400 percent of the employee's average annual compensation during the three years immediately preceding the promotion or new position, or during the entire length of the employee's employment if less than three years, the employee's average final compensation for purposes of determining the employee's service retirement allowance shall be based upon the average annual creditable compensation during the employee's final 10 years of service, or during the entire period of creditable service if less than 10 years.*

2. *The provisions of subdivision 1 shall not apply to an employee who (i) leaves a position covered by a retirement plan administered by the Virginia Retirement System and returns to service with a new rate of compensation that exceeds his previous average annual compensation by at least 400 percent, if at least one year elapsed between the date of leaving the covered position and the return to service; (ii) accepts an appointment as a judge, as that term is defined in § 51.1-301, and becomes a member of the Judicial Retirement System set forth in Chapter 3 (§ 51.1-300 et seq.); or (iii) is elected to the office of Governor or Attorney General of the Commonwealth.*

INTRODUCED

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