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HOUSE BILL NO. 1867

Offered January 11, 2023

Prefiled January 10, 2023

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

Patrons—Scott, P.A., Adams, D.M., Cherry, Clark, Helmer, Jenkins and Rasoul

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. That § 51.1-142.2 of the Code of Virginia is 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. 1. Any member in service may purchase service credit from the following categories of service or leave: (i) 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 qualifying child, as defined in § 51.1-500; (iv) service as a full-time employee of another state, a public school system of another state, or a political subdivision of the Commonwealth or another state, as certified by such state, public school system, or political subdivision; (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; (vi) full-time civilian service of the United States; (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 (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. a. 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.

b. In addition to the service credit that may be purchased under subdivision 1 and any service credit granted at no cost pursuant to subsection H, any member in service who is a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 may receive at no cost 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. The amount of service credit granted shall be equal to the lesser of the amount of time spent in active duty military service or four years. However, no such teacher shall receive service credit pursuant to this subdivision if he has also received or purchased service credit for the same period of service pursuant to subsection H or subdivision a.

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

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59 service credit may be purchased under this section if it is included in the calculation of any retirement
60 allowance received or to be received by the member from this or another retirement system, or if there
61 is a balance in a defined contribution account that serves as a primary retirement account related to such
62 service.

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

66 B. Any member in service may purchase all prior service credit for creditable service lost from
67 ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his
68 accumulated contributions. For each year or portion thereof to be credited at the time of purchase under
69 this subsection, the member shall pay the withdrawn amount to be purchased plus interest accrued daily
70 and compounded annually from the date of withdrawal to the date of payment at the assumed rate of
71 return established by the Board for the actuarial valuation of the retirement system that is in effect at the
72 time of the purchase. The Board shall develop guidelines and procedures for administering this
73 subsection.

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

78 D. Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et
79 seq.) may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase
80 service that is not reported to the retirement system by the member's employer while the member is
81 receiving such benefits.

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

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

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

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

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

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

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