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**HOUSE BILL NO. 2292**

Offered January 11, 2023

Prefiled January 11, 2023

*A BILL to amend and reenact § 51.1-138 of the Code of Virginia, relating to Virginia Retirement System; school resource officers.*

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 Patron—Williams
 

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 Referred to Committee on Appropriations
 

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**Be it enacted by the General Assembly of Virginia:****1. That § 51.1-138 of the Code of Virginia is amended and reenacted as follows:****§ 51.1-138. Benefits.**

A. Employees who become members under this article and on whose behalf contributions are paid as provided in this article shall be entitled to benefits under the retirement system.

B. By resolution legally adopted and approved by the Board, the employer may elect to provide benefits equivalent to those provided under the State Police Officers' Retirement System, as set out in Chapter 2 (§ 51.1-200 et seq.) of this title except for § 51.1-209, and except that the employer may elect to establish the retirement allowance pursuant to the allowance provided in clause (i) or (ii) in subsection A of § 51.1-206, in lieu of the benefits that would otherwise be provided hereunder for any employees who are employed in (i) law-enforcement positions comparably hazardous to that of a state police officer, including any sworn law-enforcement officer who has the duty and obligation to enforce the penal and traffic laws of this Commonwealth as directed by his superior officer, if so certified by his appointing authority, (ii) positions as full-time salaried fire fighters, (iii) positions as full-time salaried emergency medical technicians, or (iv) positions as regional jail superintendents and jail officers of regional jail farms, regional jails or jail authorities, as approved by the respective jail board or authority and by the participating political subdivisions of such entities. Sheriffs of political subdivisions and superintendents of regional jails which participate in the retirement system shall receive benefits equivalent to those of state police officers, except for the benefits provided under § 51.1-209, regardless of whether the employer has elected to provide equivalent benefits as set out in this subsection.

C. Each employer providing the benefits of subsection B for its employees prior to July 1, 1990, may elect to provide for the early retirement of employees as set forth in this subsection in lieu of the early retirement and death before retirement provisions of the State Police Officers' Retirement System. Such election must be made to the Board in writing prior to July 1, 1990. Any member in service on or after his fifty-fifth birthday with five or more years of creditable service (i) while earning the benefits permitted by this section, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title may retire upon written notification to the Board setting forth at what time the retirement is to become effective. The effective date shall be after his last day of service but shall not be more than 90 days prior to the filing of such notice. The member shall receive an allowance that shall be determined in the same manner as for retirement at an employee's normal retirement with creditable service and average final compensation being determined as of the date of his actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (a) the member's normal retirement date or (b) the first date on or after the member's fifty-fifth birthday on which the member would have completed a total of 30 years of creditable service. Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under this chapter and earning the benefits permitted by this section, Chapter 2 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-205 and 51.1-216.

Members retiring under the provisions of this subsection shall be entitled to receive post-retirement supplements as provided in § 51.1-166. In computing the amount of any supplement, any additional allowances being paid under the provisions of subsection B of § 51.1-206 shall be disregarded. In the case of death before retirement, members whose employers elect to provide benefits in accordance with the provisions of this subsection and who have not attained the age of 50 on the date of death shall be assumed to be 50 years of age for the purposes of reducing the benefits on an actuarial equivalent basis.

D. Beginning July 1, 2008, each county and city participating in the Virginia Retirement System shall provide the benefit coverage described in subsection B to each deputy sheriff, regardless of whether the deputy sheriff's salary is funded or reimbursed in whole or in part by the Compensation

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59 Board.

60 E. Notwithstanding the provisions of subsection C, beginning July 1, 2009, the City of Danville shall  
61 provide to each deputy sheriff the benefit coverage described in subsection B.

62 F. Beginning July 1, 2009, each regional jail board and regional jail authority participating in the  
63 Virginia Retirement System and each county and city participating in such board or authority shall  
64 provide the benefit coverage described in subsection B to each sworn officer of a regional jail,  
65 regardless of whether the regional jail officer's salary is funded or reimbursed in whole or in part by the  
66 State Compensation Board.

67 G. Beginning July 1, 2010, any county or city that (i) participates in the Virginia Retirement System  
68 pursuant to Chapter 1 (§ 51.1-124.1 et seq.), (ii) has in effect a retirement supplement for deputy  
69 sheriffs (in addition to the annual retirement allowance provided under the Virginia Retirement System)  
70 that exceeds the allowance set forth in subsection B of § 51.1-206 hereof, and (iii) provides the same  
71 level of retirement benefits to all of its deputy sheriffs, may, by resolution legally adopted, elect to  
72 provide the benefits coverage under subsection B hereof except for the allowance described in  
73 subsection B of § 51.1-206. Notwithstanding any other provision of law, the additional costs of such  
74 election shall be borne solely by such county or city.

75 H. If an employee (i) is in a position covered by the additional benefits under this section for at least  
76 five years, (ii) is separated from the position because of a disability that entitles him to the disability  
77 retirement benefits pursuant to § 51.1-156, and (iii) accepts a position with the same employer that is  
78 not covered by the benefits under this section but whose salary and benefits are not less than those of  
79 the position from which he is separated, then, at the sole discretion of the employer, the employee may  
80 continue to be covered under the benefits permitted by this section in his new position.

81 I. The retirement system shall not be liable for the payment of any retirement allowances or other  
82 benefits on behalf of a member or beneficiary of a member for which reserves have not been previously  
83 created from funds contributed by the employer or the members for such benefits.

84 *J. Beginning July 1, 2023, each locality participating in the Virginia Retirement System shall provide*  
85 *the benefit coverage described in subsection B to each school resource officer, as that term is defined in*  
86 *§ 9.1-101, who is employed by the locality.*

87 **§ 51.1-155. Service retirement allowance.**

88 A. Retirement allowance. — A member shall receive an annual retirement allowance, payable for  
89 life, as follows:

90 1. Normal retirement. — The allowance shall equal 1.70 percent of his average final compensation  
91 multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i)  
92 is a person who becomes a member on or after July 1, 2010, or (ii) does not have at least 60 months of  
93 creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his  
94 average final compensation multiplied by the amount of his creditable service performed or purchased  
95 on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the  
96 amount of all other creditable service.

97 2. Early retirement; applicable to teachers, state employees, and certain others. — The allowance  
98 shall be determined in the same manner as for normal retirement with creditable service and average  
99 final compensation being determined as of the date of actual retirement. If the member has less than 30  
100 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial  
101 equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal  
102 retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable  
103 service. The provisions of this subdivision shall apply to teachers and state employees. These provisions  
104 shall also apply to employees of any political subdivision that participates in the retirement system if the  
105 political subdivision makes the election provided in subdivision 3.

106 3. Early retirement; applicable to employees of certain political subdivisions, any person who  
107 becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of  
108 creditable service as of January 1, 2013. — The allowance shall be determined in the same manner as  
109 for normal retirement with creditable service and average final compensation being determined as of the  
110 date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of  
111 his age at retirement plus his creditable service at retirement is less than 90, the amount of the  
112 retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual  
113 retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the  
114 sum of his then attained age plus his then creditable service would have been equal to 90 or more had  
115 he remained in service until such date. If the member has less than 30 years of creditable service, the  
116 retirement allowance shall be reduced for the period by which the actual retirement date precedes the  
117 earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total  
118 of at least 30 years of creditable service and his then creditable service plus his then attained age would  
119 have been equal to 90 or more.

120 The provisions of this subdivision shall apply to the employees of any political subdivision that

participates in the retirement system and any other employees as provided by law. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2. No such election shall be made for 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. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of § 51.1-153, any person who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or is employed as a firefighter or law-enforcement officer as those terms are defined in § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such resolution shall be irrevocable.

4. Additional allowance. — In addition to the allowance payable under subdivisions 1, 2, and 3, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2, 3, and 4, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

2. Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.

3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter, who is hired by a local school board as an instructional or administrative employee required to be licensed by the Board of Education or as a school bus driver, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

(a) The person has been receiving such retirement allowance for at least 12 calendar months preceding his employment;

(b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; and

(c) At the time the person is employed, the position to which he is assigned is among those identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant to subdivision 9 of § 22.1-79.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

4. Any person receiving a service retirement allowance under this title for service as a sworn law-enforcement officer and who is employed in a local *public* school division as a school security officer or school resource officer, as those terms are defined in § 9.1-101, may elect to continue to

182 receive the retirement allowance during such employment under the following conditions: (i) the person  
183 has a break in service of at least 12 calendar months between retirement for service as a sworn  
184 law-enforcement officer and employment as a school security officer *or school resource officer*; (ii) the  
185 person is not receiving a retirement benefit pursuant to an early retirement incentive program from any  
186 local *public* school division within the Commonwealth; (iii) the person is not receiving a retirement  
187 benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3;  
188 and (iv) the person did not participate in any incentive program established under the second or third  
189 enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to  
190 receive the retirement allowance during the period of such employment, then his service performed and  
191 compensation received during such period of time will not increase, decrease, or affect in any way his  
192 retirement benefits before, during, or after such employment, nor shall such person be eligible to receive  
193 any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the  
194 employer shall include the person's compensation in membership payroll subject to employer  
195 contributions under § 51.1-145.

196 At least once in each four-year period, in conjunction with the actuarial investigation made under  
197 subdivision A 4 of § 51.1-124.22, there shall be an actuarial investigation made of the experience under  
198 subdivisions B 3 and 4 of this section, and the retirement system shall submit a report to the General  
199 Assembly advising it of the results of such investigation.

200 **2. That the provisions of this act providing enhanced retirement benefits to school resource officers**  
201 **pursuant to § 51.1-138 of the Code of Virginia, as amended by this act, shall apply only to service**  
202 **earned as a school resource officer on or after July 1, 2023.**