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SENATE BILL NO. 1107

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 13, 2023)

(Patron Prior to Substitute—Senator Cosgrove)

A *BILL to amend and reenact § 51.1-155 of the Code of Virginia and to amend and reenact the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, and the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, and to amend Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 by adding a second enactment, relating to Virginia Retirement System; return to work.*

Be it enacted by the General Assembly of Virginia:**1. That § 51.1-155 of the Code of Virginia is amended and reenacted as follows:****§ 51.1-155. Service retirement allowance.**

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

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

2. Early retirement; applicable to teachers, state employees, and certain others. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of 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 (i) his normal retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3.

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

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

60 the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of
61 § 51.1-153, any person who meets the definition of "emergency medical services personnel" in
62 § 32.1-111.1 or is employed as a firefighter or law-enforcement officer as those terms are defined in
63 § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and
64 (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such
65 resolution shall be irrevocable.

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

73 5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the
74 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated
75 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's
76 accumulated contributions, including accrued interest.

77 B. Beneficiary serving in position covered by this title.

78 1. Except as provided in subdivisions 2, 3, and 4, if a beneficiary of a service retirement allowance
79 under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3
80 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement
81 purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1
82 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed.
83 Any member who retires and later returns to covered employment shall not be entitled to select a
84 different retirement option for a subsequent retirement.

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

96 3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter,
97 who is hired by a local *public* school board (i) as an instructional or administrative employee required to
98 be licensed by the Board of Education, (ii) *in a specialized student support position as that term is*
99 *described in subsection O of § 22.1-253.13:2*, or (iii) as a school bus driver, may elect to continue to
100 receive the retirement allowance during such employment, under the following conditions:

101 (a) The person ~~has been receiving such retirement allowance for at least 12 calendar months~~
102 ~~preceding his employment has a break in service of at least six calendar months between retirement and~~
103 ~~returning to work full time for a local public school board;~~

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

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

110 If the person elects to continue to receive the retirement allowance during the period of such
111 employment, then his service performed and compensation received during such period of time will not
112 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment,
113 *nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter*
114 *6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in*
115 *membership payroll subject to employer contributions under § 51.1-145.*

116 4. Any person receiving a service retirement allowance under this title for service as a sworn
117 law-enforcement officer and who is employed in a local *public* school division as a school security
118 officer, as defined in § 9.1-101, may elect to continue to receive the retirement allowance during such
119 employment under the following conditions: (i) the person has a break in service of at least ~~12~~ *six*
120 calendar months between retirement for service as a sworn law-enforcement officer and employment as a
121 school security officer; (ii) the person is not receiving a retirement benefit pursuant to an early

retirement incentive program from any local *public* school division within the Commonwealth; (iii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv) the person did not participate in any incentive program established under the second or third enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. 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, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.

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

2. That the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, are amended and reenacted as follows:

5. That the provisions of this act shall expire on July 1, 2025 2028.

3. That the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, is amended and reenacted as follows:

3. That the provisions of this act shall expire on July 1, 2025 2028.

4. That Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 are amended by adding a second enactment as follows:

2. That the provisions of this act shall expire on July 1, 2028.

5. That the provisions of the first enactment of this act shall expire on July 1, 2028.

6. That the provisions this act shall become effective on January 1, 2024.