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SENATE BILL NO. 1449

AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patron Prior to Substitute—Senator Obenshain)

*A BILL to amend and reenact §§ 51.1-303 and 51.1-304 of the Code of Virginia, relating to Judicial Retirement System; creditable service and contributions; absence; emergency.***Be it enacted by the General Assembly of Virginia:****1. That §§ 51.1-303 and 51.1-304 of the Code of Virginia are amended and reenacted as follows:****§ 51.1-303. Creditable service.**

A. For those members in service on December 31, 1994, service as a judge shall be multiplied by a factor of 3.5, the weighted years of service factor, to calculate years of creditable service. To calculate years of creditable service for those members appointed or elected to an original term commencing on or after January 1, 1995, service as a judge shall be multiplied by the weighted years of service factor of 2.5. To calculate years of creditable service for those members appointed or elected to an original term commencing on or after July 1, 2010, the following formula shall be used: if (i) the member was less than 45 years old at the time he was appointed or elected to such original term, then service as a judge shall be multiplied by the weighted years of service factor of 1.5, (ii) the member was at least 45 years old but less than 55 years old at the time he was appointed or elected to such original term, then service as a judge shall be multiplied by the weighted years of service factor of 2.0, and (iii) the member was at least 55 years old at the time he was appointed or elected to such original term, then service as a judge shall be multiplied by the weighted years of service factor of 2.5. For purposes of this section, "original term" means the first term for which the member was appointed or elected to a position covered by the Judicial Retirement System.

B. Service qualifying for credit under the provisions of the Virginia Retirement System, the State Police Officers' Retirement System, and the Virginia Law Officers' Retirement System shall be included as creditable service for the purposes of this chapter, provided the requirements of those systems for crediting service have been complied with. Service purchased in accordance with the provisions of § 51.1-142.2 shall not be considered in determining the actuarial equivalent for early retirement nor shall it be considered twice in determining any disability allowance payable under this chapter.

C. If a member ceases to be a judge, has not received a refund of the accumulated contributions credited to his member's contribution account, and accepts employment in a position covered by a "retirement plan administered by the Virginia Retirement System" as defined under § 51.1-124.3, he shall be entitled to credit for his previous creditable service under this chapter. The amount of service transferred to the credit of the member in such other retirement plan shall not exceed the amount of credit which would provide a benefit of 78 percent of average final compensation determined on the assumption that the member was eligible for normal retirement as of the date of transfer and that he had elected no optional allowance. Future retirement rights shall be as provided under the applicable retirement plan. However, the annual retirement allowance payable to such person accepting employment in a position covered by any other retirement plan administered by the Virginia Retirement System shall not exceed 78 percent of the person's average final compensation, unless the person has been credited with five or more years of creditable service under such other retirement plan for service performed after ceasing to be a judge. In no case shall the annual retirement allowance payable to such person exceed 100 percent of his average final compensation.

D. *There shall be subtracted from any creditable service the entire amount of time during which a judge is absent from his duties for a period of greater than three months, unless that absence is due to a medical condition, disability, active duty military leave, or family emergency and the existence of the medical condition, disability, active duty military leave, or family emergency is documented in a written communication signed under penalty of perjury by the judge or other authorized representative and submitted promptly to the Virginia Retirement System and the Executive Secretary of the Supreme Court of Virginia.*

§ 51.1-304. Contributions by Commonwealth.

The Commonwealth shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The amount shall be determined and paid as provided in Chapter 1 (§ 51.1-124.1 et seq.). Notwithstanding the foregoing provisions of this section, member contributions and employer contributions for judges appointed or elected to an original term commencing on or after January 1, 2014, shall be determined under the provisions of the hybrid retirement program described in § 51.1-169. *However, during any period that a judge is absent for a period of greater than three months from his duties, the employer shall not make any contributions*

60 *otherwise required pursuant to subdivision B 2 of § 51.1-169, unless that absence is due to a medical*
61 *condition, disability, active duty military leave, or family emergency and the existence of the medical*
62 *condition, disability, active duty military leave, or family emergency is documented in a written*
63 *communication signed under penalty of perjury by the judge or other authorized representative and*
64 *submitted promptly to the Virginia Retirement System and the Executive Secretary of the Supreme Court*
65 *of Virginia.*
66 **2. That an emergency exists and this act is in force from its passage.**