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**HOUSE BILL NO. 895**

Offered January 22, 1996

*A BILL to amend and reenact §§ 51.1-153 and 51.1-205 of the Code of Virginia, relating to deferring retirement under the 50/10 retirement program in the Virginia Retirement System.*

Patrons—Croshaw, Cox, Davies, Dillard, Harris, Hull, Jackson, Puller, Putney and Watkins; Senators: Lucas, Martin, Potts, Stosch and Waddell

Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:****1. That §§ 51.1-153 and 51.1-205 of the Code of Virginia are amended and reenacted as follows:****§ 51.1-153. Service retirement.**

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire at any time upon written notification to the Board setting forth the date the retirement is to become effective. Any member in service who was denied membership prior to July 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his normal retirement date and the requirement of having five or more years of service shall not apply.

B. Early retirement. - Any member in service who has attained his fifty-fifth birthday with five or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service may retire under the provisions of subsection A, ~~or~~ B, *or* D of this section if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective. A member who is a state employee shall not be eligible for retirement pursuant to this subsection unless the employee has entered into a binding agreement with the Department of Personnel and Training providing that the employee shall not thereafter re-enter into full-time or part-time employment with any agency in the executive branch of the Commonwealth for a period of two years following retirement.

E. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

F. Notification on behalf of member. - If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

**§ 51.1-205. Service retirement generally.**

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board, setting forth the date the retirement is to become effective. Any member, except one appointed by the Governor or elected by the people, who attains seventy years of age shall be retired forthwith. Any employer, subsequent to the employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that the employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.

B. Early retirement. - Any member in service who has attained his fiftieth birthday with five or more years of creditable service may retire upon written notification to the Board setting forth the date the retirement is to become effective.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service, may retire under the provisions of subsection A, ~~or~~ B, *or* D of this section if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the

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60 benefits of this subsection if his employer certifies that his service was terminated because of  
61 dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

62 D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his  
63 fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement  
64 date upon written notification to the Board setting forth the date the retirement is to become effective. A  
65 member shall not be eligible for retirement pursuant to this subsection unless the member has entered  
66 into a binding agreement with the Department of Personnel and Training providing that the member  
67 shall not thereafter re-enter into full-time or part-time employment with any agency in the executive  
68 branch of the Commonwealth for a period of two years following retirement.

69 E. Effective date of retirement. - The effective date of retirement shall be after the last day of service  
70 of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

71 F. Notification on behalf of member. - If the member is physically or mentally unable to submit  
72 written notification of his intention to retire, the member's appointing authority may submit notification  
73 on his behalf.

74 **2. That the provisions of this act shall apply to employees of political subdivisions unless the**  
75 **employer notifies the Board of Trustees otherwise in writing on or before July 1, 1996.**