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SENATE BILL NO. 548

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact § 51.1-155 of the Code of Virginia, relating to Virginia Retirement System; return to work; break in service.

Patron—Craig

Referred to Committee on Finance and Appropriations

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 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

59 retirement system, including interest credited at the rate of two percent compounded annually since the
60 transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable
61 compensation at the date of abolishment for a period equal to his period of membership in the abolished
62 system.

63 5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the
64 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated
65 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's
66 accumulated contributions, including accrued interest.

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

68 1. Except as provided in subdivisions 2, 3, and 4, if a beneficiary of a service retirement allowance under
69 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
70 seq.) is at any time in service as an employee in a position covered for retirement purposes under the
71 provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§
72 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later
73 returns to covered employment shall not be entitled to select a different retirement option for a subsequent
74 retirement.

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

85 3. (Expires July 1, 2028) Any person receiving a service retirement allowance under this chapter, who is
86 hired by a local public school board (i) as an instructional or administrative employee required to be licensed
87 by the Board of Education, (ii) in a specialized student support position as that term is described in subsection
88 O of § 22.1-253.13:2, or (iii) as a school bus driver, may elect to continue to receive the retirement allowance
89 during such employment, under the following conditions:

90 (a) The person has a break in service of at least ~~six one~~ calendar ~~months~~ month between retirement and
91 returning to work full time for a local public school board;

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

94 (c) At the time the person is employed, the position to which he is assigned is among those identified by
95 the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the relevant division
96 superintendent, pursuant to § 22.1-70.3, or by the relevant local public school board, pursuant to subdivision
97 9 of § 22.1-79.

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

104 4. Any person receiving a service retirement allowance under this title for service as a sworn law-
105 enforcement officer and who *returns to work full time as a law-enforcement officer* or is employed in a local
106 public school division as a school security officer, as *those terms* are defined in § 9.1-101, may elect to
107 continue to receive the retirement allowance during such employment under the following conditions: (i) the
108 person has a break in service of at least ~~six one~~ calendar ~~months~~ month between retirement for service as a
109 sworn law-enforcement officer and *returning to work full time as a law-enforcement officer* or employment
110 as a school security officer; (ii) the person is not receiving a retirement benefit pursuant to an early retirement
111 incentive program from any local public school division within the Commonwealth; (iii) the person is not
112 receiving a retirement benefit pursuant to an early retirement incentive program from any employer, as
113 defined in § 51.1-124.3; and (iv) the person did not participate in any incentive program established under the
114 second or third enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to
115 continue to receive the retirement allowance during the period of such employment, then his service
116 performed and compensation received during such period of time will not increase, decrease, or affect in any
117 way his retirement benefits before, during, or after such employment, nor shall such person be eligible to
118 receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the
119 employer shall include the person's compensation in membership payroll subject to employer contributions

120 under § 51.1-145.

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

INTRODUCED

SB548