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HOUSE BILL NO. 1393

Offered January 16, 2024

A BILL to amend and reenact § 51.1-155 of the Code of Virginia, relating to Virginia Retirement System; return to work for law-enforcement officers.

Patron—Jones

Referred to Committee on 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. (Effective January 1, 2024) 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 retirement system, including interest credited at the rate of two percent compounded annually since the

59 transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable
60 compensation at the date of abolishment for a period equal to his period of membership in the abolished
61 system.

62 5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the
63 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated
64 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's
65 accumulated contributions, including accrued interest.

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

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

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

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

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

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

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

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

103 4. Any person receiving a service retirement allowance under this title for service as a sworn law-
104 enforcement officer and who *returns to work full time as a law-enforcement officer* or is employed in a local
105 public school division as a school security officer, as *those terms are* defined in § 9.1-101, may elect to
106 continue to receive the retirement allowance during such employment under the following conditions: (i) the
107 person has a break in service of at least six calendar months between retirement for service as a sworn law-
108 enforcement officer and *returning to work full time as a law-enforcement officer* or employment as a school
109 security officer; (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive
110 program from any local public school division within the Commonwealth; (iii) the person is not receiving a
111 retirement benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-
112 124.3; and (iv) the person did not participate in any incentive program established under the second or third
113 enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to
114 receive the retirement allowance during the period of such employment, then his service performed and
115 compensation received during such period of time will not increase, decrease, or affect in any way his
116 retirement benefits before, during, or after such employment, nor shall such person be eligible to receive any
117 retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer
118 shall include the person's compensation in membership payroll subject to employer contributions under §
119 51.1-145.

120 At least once in each four-year period, in conjunction with the actuarial investigation made under

121 subdivision A 4 of § 51.1-124.22, there shall be an actuarial investigation made of the experience under
122 subdivisions B 3 and 4 of this section, and the retirement system shall submit a report to the General
123 Assembly advising it of the results of such investigation.
124 **2. That the provisions of this act shall become effective on January 1, 2025.**

INTRODUCED

HB1393