

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 22.1-296, 51.1-142.2, and 51.1-142.3 of the Code of Virginia, relating to*  
 3 *school board policies; unpaid educational leave for certain employee association officers; purchase of*  
 4 *service credit.*

5 [H 139]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That §§ 22.1-296, 51.1-142.2, and 51.1-142.3 of the Code of Virginia are amended and reenacted as**  
 9 **follows:**

10 **§ 22.1-296. Payment of employees; reimbursement for private transportation; certain sick leave**  
 11 **policies; unpaid educational leave for certain employee association officers.**

12 A. Each school board shall provide for the payment of teachers, principals, assistant principals, and other  
 13 employees monthly, semimonthly, or biweekly, as may be determined by the school board.

14 However, school boards setting the school calendar so that the first day students are required to attend  
 15 occurs prior to August 15 shall establish a payment schedule to ensure that all contract personnel are  
 16 compensated for time worked within the first month of employment.

17 B. All school board employees may be reimbursed for private transportation at a rate not to exceed that  
 18 which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is  
 19 paid, however, shall be the same for school board members and employees of the board.

20 C. Each local school board shall adopt policies providing for leave without pay for school board  
 21 employees with debilitating or life-threatening illness or injury, without regard to the employee's length of  
 22 service with the school board.

23 *D. Each school board shall adopt a policy that requires the school board to approve unpaid educational*  
 24 *leave for school board employees who are state employee association executive officers and for up to two*  
 25 *school board employees who are local employee association officers for a maximum of four years per officer.*  
 26 *Employee association officers approved for such leave may purchase service credit with the Virginia*  
 27 *Retirement System pursuant to § 51.1-142.2 for such period of leave.*

28 **§ 51.1-142.2. Prior service or membership credit for certain members; service credit for**  
 29 **accumulated sick leave.**

30 A. Certain members may purchase credit for service as provided in this section.

31 ~~A.~~ B. 1. Any member in service may purchase service credit from the following categories of service or  
 32 leave: (i) leave of absence for educational purposes that was previously approved by the member's employer,  
 33 *including unpaid educational leave as set forth in subsection D of § 22.1-296*; (ii) leave of absence for a  
 34 serious health condition of the member or of an immediate family member, all as defined in the Family and  
 35 Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq., as amended, and previously certified by the member's  
 36 employer; (iii) up to one year of service credit per occurrence of leave for any unpaid leave of absence due to  
 37 the birth, adoption, or death of a qualifying child, as defined in § 51.1-500; (iv) service as a full-time  
 38 employee of another state, a public school system of another state, or a political subdivision of the  
 39 Commonwealth or another state, as certified by such state, public school system, or political subdivision; (v)  
 40 full-time service of a political subdivision of this state not credited to the member under an agreement as  
 41 provided for in § 51.1-143.1, as certified by such political subdivision; (vi) full-time civilian service of the  
 42 United States; (vii) full-time service at a private institution of higher education if the private institution is  
 43 merged with a public institution of higher education and graduates of the private institution are then issued  
 44 new degrees from the public institution; or (viii) any period of time when the member was employed part  
 45 time or in a wage position by a participating employer and not otherwise eligible to participate in the  
 46 retirement system because the member was not an employee as defined in § 51.1-124.3. However, no  
 47 member in service shall be allowed to purchase more than a total of four years of service credit pursuant to  
 48 this subdivision.

49 2. In addition to the service credit that may be purchased under subdivision 1, any member in service may  
 50 purchase up to four years of service credit for prior active duty military service in the armed forces of the  
 51 United States, provided that the discharge from a period of active duty status with the armed forces was not  
 52 dishonorable.

53 3. The service credit to be credited to a member under this subsection shall be calculated at the ratio of  
 54 one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased, except for  
 55 employment service purchased under clause (viii) of subdivision 1, which shall be calculated at the ratio of  
 56 one month of service credit for each 173 hours of service as certified by the employer.

57 For each year or portion thereof to be credited at the time of purchase under this subsection, the member  
 58 shall pay the approximate normal cost of the retirement plan under which the member is covered at the time  
 59 of such purchase, as determined by the Board in its sole discretion. If the member does not purchase, or enter  
 60 into a purchase of service credit contract for, the service made available in this subsection within the first 24  
 61 months of the member's active service following his first date of hire or the final day of any applicable leave  
 62 of absence, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the  
 63 member shall pay the actuarial equivalent cost. To the extent the member becomes inactive during the 24  
 64 months following his first date of hire or the final day of any applicable leave of absence, such periods shall  
 65 not be included in the 24 months of active service.

66 Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, as amended, no  
 67 service credit may be purchased under this section if it is included in the calculation of any retirement  
 68 allowance received or to be received by the member from this or another retirement system, or if there is a  
 69 balance in a defined contribution account that serves as a primary retirement account related to such service.

70 For purposes of this subsection, "active duty military service" means full-time service of at least 180  
 71 consecutive days in the United States Army, Navy, Air Force, Marines, Coast Guard, or any other distinct  
 72 branch of the armed services as established by the federal government, or reserve components thereof.

73 ~~B.~~ C. Any member in service may purchase all prior service credit for creditable service lost from ceasing  
 74 to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated  
 75 contributions. For each year or portion thereof to be credited at the time of purchase under this subsection, the  
 76 member shall pay the withdrawn amount to be purchased plus interest accrued daily and compounded  
 77 annually from the date of withdrawal to the date of payment at the assumed rate of return established by the  
 78 Board for the actuarial valuation of the retirement system that is in effect at the time of the purchase. The  
 79 Board shall develop guidelines and procedures for administering this subsection.

80 ~~C.~~ D. Any member in service may purchase service credit for accumulated sick leave on his effective date  
 81 of retirement based upon such sums as the employer may provide as payment for any unused sick leave  
 82 balances. The cost of service credit purchased under this subsection shall be the actuarial equivalent cost of  
 83 such service.

84 ~~D.~~ E. Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.)  
 85 may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase service that  
 86 is not reported to the retirement system by the member's employer while the member is receiving such  
 87 benefits.

88 For each year or portion thereof to be credited at the time of purchase under this subsection, the member  
 89 shall pay the approximate normal cost of the retirement plan under which the member is covered, as  
 90 determined by the Board in its sole discretion. If the member does not purchase, or enter into a purchase of  
 91 service credit contract for, any service made available in this subsection within the first 24 months of the  
 92 member's active service following his first date of hire or the final day of any applicable leave of absence,  
 93 then, for each year or portion thereof to be credited at the time of purchase, the member shall pay the actuarial  
 94 equivalent cost. To the extent the member becomes inactive during the 24 months following his first date of  
 95 hire or the final day of any applicable leave of absence, such periods shall not be included in the 24 months of  
 96 active service.

97 ~~E.~~ F. Payment may be made in a lump sum at the time of purchase or by payroll deduction. Any number  
 98 of additional deductions may be permitted at any time. Should any deduction be terminated before the  
 99 member purchases the entire period contracted for, the member shall be credited with the number of full or  
 100 partial months of service for which full payment has been made. If any deduction is continued after the entire  
 101 period has been purchased, the member shall be credited with no more than the amount of service for which  
 102 he was eligible and for which he paid, and the excess amount deducted shall be refunded to the member.

103 ~~F.~~ G. Any employer may elect to pay an equivalent amount in lieu of all member contributions required of  
 104 its employees for the purchase of service credit pursuant to this section. These contributions shall not be  
 105 considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.), nor shall they be considered salary for  
 106 purposes of this chapter.

107 ~~G.~~ H. In any case where member and employer contributions, as required under this chapter, were not  
 108 made because of an error in the payroll, personnel, or other classification system of an employer participating  
 109 in the retirement system, service that has not been credited because of such error may be purchased on the  
 110 following basis:

111 1. The most recent three years of service credit shall be purchased, using applicable member and employer  
 112 contribution rates and creditable compensation in effect for such period, in a manner and at the cost  
 113 prescribed by the Board; and

114 2. All other years of service credit shall be purchased by the employer at an actuarial equivalent cost.

115 ~~H.~~ I. Any member may receive credit at no cost for service rendered in the armed forces of the United  
 116 States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from a  
 117 period of active duty with the armed forces was not dishonorable, (iii) the member has not withdrawn his  
 118 accumulated contributions, (iv) the member is not disabled or killed while on leave without pay while

119 performing active duty military service in the armed forces of the United States, and (v) the member reenters  
120 service in a covered position within one year after discharge from the armed forces. In order to receive such  
121 service, the member must complete such forms and other requirements as are required by the Board and the  
122 retirement system.

123 **§ 51.1-142.3. Purchase of additional prior service credit by certain school division superintendents.**

124 A. In addition to the four years of prior service credit that may be purchased under clause (iv) of  
125 subdivision *A B* 1 of § 51.1-142.2, a school division superintendent appointed by a school board pursuant to  
126 § 22.1-60, with at least five years of creditable service in the Retirement System, may purchase up to a  
127 maximum of 10 additional years of prior service credit for creditable service of another state or of a political  
128 subdivision, or public school system of this or another state, as certified by such state, political subdivision,  
129 or public school system. Except as otherwise required by Chapter 1223 of Title 10 of the United States Code,  
130 the service credit made available under this section may not be purchased if, before being purchased or at the  
131 time of such purchase pursuant to this section, the service to be purchased is service that is included in the  
132 calculation of any retirement allowance received or to be received by the member from this or any other  
133 retirement system.

134 The school board that has appointed such school division superintendent may purchase such prior service  
135 credit on behalf of the school division superintendent.

136 B. The cost at the time of purchase for each additional year of service credit (or portion thereof) pursuant  
137 to this section, shall be 10 percent of the school division superintendent's creditable compensation or 10  
138 percent of the school division superintendent's average final compensation, whichever is greater, provided  
139 that the service credit to be purchased is paid for in one lump-sum payment within one year after the school  
140 division superintendent first became eligible to purchase such service credit or by July 1, 2004, whichever is  
141 later.

142 A school division superintendent shall first become eligible to purchase prior service credit under this  
143 section as follows:

144 1. For members in service on June 30, 2003, and July 1, 2003, upon attaining five years of creditable  
145 service as a school division superintendent in the Retirement System;

146 2. For members in service on June 30, 2003, and July 1, 2003, who become a school division  
147 superintendent on or after July 1, 2003, upon attaining five years of creditable service as a school division  
148 superintendent in the Retirement System; and

149 3. For members not in service on June 30, 2003, upon the member earning five years of creditable service  
150 as a school division superintendent in the Retirement System for service performed after June 30, 2003.

151 C. In any case in which prior service credit pursuant to this section has been purchased by or on behalf of  
152 a school division superintendent, if the school division superintendent, subsequent to the date of such  
153 purchase, does not remain in such position with the local school board for at least the number of years  
154 purchased: (i) the Retirement System shall reduce the creditable service credited to the school division  
155 superintendent by an amount equivalent to the number of years of prior service purchased less the number of  
156 years served by the person as a school division superintendent with the local school board subsequent to the  
157 date of such purchase. Such reduction in creditable service shall be deemed to be forfeited by the school  
158 division superintendent for purposes of this chapter and the contributions representing that forfeited service  
159 shall be refunded to the school division superintendent; and (ii) the school division superintendent shall be  
160 liable to the local school board for the amount paid by the local school board for purchasing the forfeited  
161 prior service credit.

162 D. If a school division superintendent does not purchase the prior service credit described in subsection A  
163 within the timeframe provided in subsection B, such prior service credit may be purchased at the actuarial  
164 equivalent cost, provided that in no case shall any person purchase more than 10 years of such prior service  
165 credit under this section.