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SENATE BILL NO. 17

Offered January 12, 2022

Prefiled December 21, 2021

A BILL to amend and reenact §§ 9.1-116 and 51.1-155 of the Code of Virginia, relating to Virginia Retirement System; employment of retired law-enforcement officers.

Patron—Hackworth

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-116 and 51.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-116. Exemptions of certain persons from certain training requirements.

The Director of the Department, with the approval of the Board, may exempt a chief of police or any law-enforcement officer or any courthouse and courtroom security officer, jail officer, dispatcher, process server, or custodial officer or corrections officer of the Commonwealth or any political subdivision who has demonstrated sensitivity to cultural diversity issues and had previous experience and training as a law-enforcement officer, courthouse and courtroom security officer, jail officer, dispatcher, process server or custodial officer or corrections officer with any law-enforcement or custodial agency, from the mandatory attendance of any or all courses which are required for the successful completion of the compulsory minimum training standards established by the Board.

The Director and Board shall exempt a law-enforcement officer who has demonstrated sensitivity to cultural diversity issues, had previous experience and training as a law-enforcement officer, is currently receiving or is eligible to receive a service retirement allowance in accordance with subdivision B 5 of § 51.1-155, and has a break in service of no longer than 60 calendar months between retirement and such new employment as a law-enforcement officer from the mandatory attendance of all courses that are required for the successful completion of the compulsory minimum training standards established by the Board.

The exemption authorized by this section shall be available to all law-enforcement officers, courthouse and courtroom security officers, jail officer, dispatchers, process servers and custodial officers, and corrections officers, regardless of any officer's date of initial employment, and shall entitle the officer when exempted from mandatory attendance to be deemed in compliance with the compulsory minimum training standards and eligible for the minimum salary established pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 of Title 15.2, provided that the officer is otherwise qualified.

§ 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

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59 retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual
60 retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the
61 sum of his then attained age plus his then creditable service would have been equal to 90 or more had
62 he remained in service until such date. If the member has less than 30 years of creditable service, the
63 retirement allowance shall be reduced for the period by which the actual retirement date precedes the
64 earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total
65 of at least 30 years of creditable service and his then creditable service plus his then attained age would
66 have been equal to 90 or more.

67 The provisions of this subdivision shall apply to the employees of any political subdivision that
68 participates in the retirement system and any other employees as provided by law. The participating
69 political subdivision may, however, elect to provide its employees with the early retirement allowance
70 set forth in subdivision 2. No such election shall be made for a person who becomes a member on or
71 after July 1, 2010, or a member who does not have at least 60 months of creditable service as of
72 January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted
73 resolution.

74 Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to
75 the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of
76 § 51.1-153, any person who meets the definition of "emergency medical services personnel" in
77 § 32.1-111.1 or is employed as a firefighter or law-enforcement officer as those terms are defined in
78 § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and
79 (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such
80 resolution shall be irrevocable.

81 4. Additional allowance. — In addition to the allowance payable under subdivisions 1, 2, and 3, a
82 member shall receive an additional allowance which shall be the actuarial equivalent, for his attained
83 age at the time of retirement, of the excess of his accumulated contributions transferred from the
84 abolished system to the retirement system, including interest credited at the rate of two percent
85 compounded annually since the transfer to the date of retirement, over the annual amounts equal to four
86 percent of his annual creditable compensation at the date of abolishment for a period equal to his period
87 of membership in the abolished system.

88 5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the
89 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated
90 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's
91 accumulated contributions, including accrued interest.

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

93 1. Except as provided in subdivisions 2, 3, and 4, and 5 if a beneficiary of a service retirement
94 allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et
95 seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for
96 retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.),
97 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so
98 employed. Any member who retires and later returns to covered employment shall not be entitled to
99 select a different retirement option for a subsequent retirement.

100 2. Active members of the General Assembly who are eligible to receive a retirement allowance under
101 this title, excluding their service as a member of the General Assembly, shall be eligible to receive a
102 retirement allowance based on their creditable service and average final compensation for service other
103 than as a member of the General Assembly. Such members of the General Assembly shall continue to
104 be reported as any other members of the retirement system. Upon ceasing to serve in the General
105 Assembly, members of the General Assembly receiving a retirement allowance based on their creditable
106 service and average final compensation for service other than as a member of the General Assembly
107 shall have their retirement allowance recomputed prospectively to include their service as a member of
108 the General Assembly. Active members of the General Assembly shall be prohibited from receiving a
109 service retirement allowance under this title based solely on their service as a member of the General
110 Assembly.

111 3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter,
112 who is hired by a local school board as an instructional or administrative employee required to be
113 licensed by the Board of Education or as a school bus driver, may elect to continue to receive the
114 retirement allowance during such employment, under the following conditions:

115 (a) The person has been receiving such retirement allowance for at least 12 calendar months
116 preceding his employment;

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

119 (c) At the time the person is employed, the position to which he is assigned is among those
120 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the

relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant to subdivision 9 of § 22.1-79.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

4. Any person receiving a service retirement allowance under this title for service as a sworn law-enforcement officer and who is employed in a local school division as a school security officer, as defined in § 9.1-101, may elect to continue to receive the retirement allowance during such employment under the following conditions: (i) the person has a break in service of at least 12 calendar months between retirement for service as a sworn law-enforcement officer and employment as a school security officer; (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local school division within the Commonwealth; (iii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv) the person did not participate in any incentive program established under the second or third enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.

5. Any person receiving a service retirement allowance under this title for service as a sworn law-enforcement officer, who is subsequently hired by a state or local law-enforcement agency as a law-enforcement officer, as defined in § 9.1-101, may elect to continue to receive the retirement allowance during such employment under the following conditions: (i) the person has a break in service of at least 12 calendar months between retirement for service as a sworn law-enforcement officer and such new employment as a law-enforcement officer; (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any law-enforcement agency within the Commonwealth; (iii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv) the person did not participate in any incentive program established under the second or third enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.

At least once in each four-year period, in conjunction with the actuarial investigation made under subdivision A 4 of § 51.1-124.22, there shall be an actuarial investigation made of the experience under subdivisions B 3 and, 4, and 5 of this section, and the retirement system shall submit a report to the General Assembly advising it of the results of such investigation.