

SENATE BILL NO. 1289

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on January 25, 2023)

(Patron Prior to Substitute--Senator Deeds)

A BILL to amend and reenact § 51.1-155 of the Code of Virginia, relating to Virginia Retirement System; school bus drivers; return to employment.

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

27 apply to employees of any political subdivision that participates in the retirement system if the political
28 subdivision makes the election provided in subdivision 3.

29 3. Early retirement; applicable to employees of certain political subdivisions, any person who
30 becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of
31 creditable service as of January 1, 2013. — The allowance shall be determined in the same manner as for
32 normal retirement with creditable service and average final compensation being determined as of the date
33 of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his
34 age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement
35 allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement
36 date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then
37 attained age plus his then creditable service would have been equal to 90 or more had he remained in
38 service until such date. If the member has less than 30 years of creditable service, the retirement allowance
39 shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal
40 retirement date or (ii) the first date on which he would have completed a total of at least 30 years of
41 creditable service and his then creditable service plus his then attained age would have been equal to 90
42 or more.

43 The provisions of this subdivision shall apply to the employees of any political subdivision that
44 participates in the retirement system and any other employees as provided by law. The participating
45 political subdivision may, however, elect to provide its employees with the early retirement allowance set
46 forth in subdivision 2. No such election shall be made for a person who becomes a member on or after
47 July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1,
48 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

49 Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare
50 to the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of § 51.1-
51 153, any person who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or
52 is employed as a firefighter or law-enforcement officer as those terms are defined in § 15.2-1512.2 (i)

53 shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed
54 to have at least 60 months of creditable service as of January 1, 2013. Such resolution shall be irrevocable.

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

62 5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to
63 the 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
68 under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§
69 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes
70 under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et
71 seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who
72 retires and later returns to covered employment shall not be entitled to select a different retirement option
73 for a subsequent retirement.

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

80 average final compensation for service other than as a member of the General Assembly shall have their
81 retirement allowance recomputed prospectively to include their service as a member of the General
82 Assembly. Active members of the General Assembly shall be prohibited from receiving a service
83 retirement allowance under this title based solely on their service as a member of the General Assembly.

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

88 ~~(a)-(1)~~ The person has ~~been receiving such retirement allowance for~~ a break in service of at least
89 12 calendar months preceding his employment or is eligible pursuant to subdivision b;

90 ~~(b)-(2)~~ The person is not receiving a retirement benefit pursuant to an early retirement incentive
91 program from any local public school division within the Commonwealth; and

92 ~~(c)-(3)~~ At the time the person is employed, the position to which he is assigned is among those
93 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the
94 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local public school board,
95 pursuant to subdivision 9 of § 22.1-79.

96 b. A person shall not be required to meet the provisions of subdivision a (1) if such person was a
97 retiree employed by a local public school division as a school bus driver and had a bona fide break in
98 service of at least six calendar months between retirement from service as a school bus driver and a return
99 to employment as a school bus driver in a local public school division with a critical shortage of school
100 bus drivers as identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-
101 23, by the relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local public school
102 board, pursuant to subdivision 9 of § 22.1-79.

103 If the person elects to continue to receive the retirement allowance during the period of such
104 employment described in subdivision a or b, then his service performed and compensation received during
105 such period of time will not increase, decrease, or affect in any way his retirement benefits before, during,
106 or after such employment, nor shall such person be eligible to receive any retirement benefits available to

107 him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's
108 compensation in membership payroll subject to employer contributions under § 51.1-145.

109 4. Any person receiving a service retirement allowance under this title for service as a sworn law-
110 enforcement officer and who is employed in a local school division as a school security officer, as defined
111 in § 9.1-101, may elect to continue to receive the retirement allowance during such employment under the
112 following conditions: (i) the person has a break in service of at least 12 calendar months between
113 retirement for service as a sworn law-enforcement officer and employment as a school security officer;
114 (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from
115 any local school division within the Commonwealth; (iii) the person is not receiving a retirement benefit
116 pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv)
117 the person did not participate in any incentive program established under the second or third enactment of
118 Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to receive the
119 retirement allowance during the period of such employment, then his service performed and compensation
120 received during such period of time will not increase, decrease, or affect in any way his retirement benefits
121 before, during, or after such employment, nor shall such person be eligible to receive any retirement
122 benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall
123 include the person's compensation in membership payroll subject to employer contributions under § 51.1-
124 145.

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

129 **2. That the Secretary of Education and the Secretary of Transportation shall convene a work group,**
130 **including engagement with representatives of the U.S. Department of Transportation and the U.S.**
131 **Department of Education, to identify specific strategies that could be implemented to temporarily**
132 **and permanently address shortages of bus drivers in local school divisions across the**
133 **Commonwealth.**

134 **3. That the provisions of this act shall become effective on January 1, 2024.**

135 #