

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 51.1-142.2 and 51.1-142.3 of the Code of Virginia, relating to the Virginia Retirement System; prior service or membership credit.

[H 1890]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-142.2 and 51.1-142.3 of the Code of Virginia are amended and reenacted as follows:

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

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

A. Except as provided in subdivisions 1 and 2, in order to receive credit for the service made available in subsection B, a member in service shall be required to make a payment for each year, or portion thereof, to be credited at the time of purchase, equal to five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing the service made available in subsection B through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation.

1. 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, shall pay an amount equal to a rate approximating the normal cost for the retirement program under which the member is covered, with such rate for each retirement program to be determined by the Board, and reviewed by the Board no less than every six years. However, if the member does not purchase, or enter into a purchase of service contract for the service made available in subsection B within one year from his first date of hire or within one year of the final day of any leave of absence under subdivision B 2, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost.

2. If a member other than a member described in subdivision 1 does not purchase, or enter into a purchase of service contract for, the service made available in subsection B within three years from his first date of hire or within three years of the final day of any leave of absence under subdivision B 2, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost.

3. When a member requests credit for a portion of the period, the most recent portion shall be credited. Payment may be made in a lump sum at the time of purchase or by an additional payroll deduction. Any number of additional deductions may be permitted at any time. Should any additional deduction be terminated prior to purchasing the entire period that might otherwise be credited, the member shall be credited with the number of additional full or partial months of service for which full payment is made. If any additional deduction is continued beyond the point at which the entire period has been purchased, the member shall be credited with no more than the entire period that might otherwise have been credited and the excess amount deducted shall be refunded to the member.

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

B. 1. Any member in service may purchase prior service credit for from the following categories of service or leave: (i) active duty military service in the armed forces of the United States, provided that the discharge from a period of active duty status with the armed forces was not dishonorable; (ii) creditable leave of absence for educational purposes that was previously approved by the member's employer; (ii) leave of absence for a serious health condition of the member or of an immediate family member, all as defined in the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq., as amended, and previously certified by the member's employer; (iii) up to one year of service credit per occurrence of leave for any unpaid leave of absence due to the birth, adoption, or death of a qualified child, as defined in § 51.1-500; (iv) service as a full-time employee of another state or of a public school system of another state, or a political subdivision or public school system of this the Commonwealth or another state, as certified by such state, public school system, or political subdivision or public school system (iii) creditable; (v) full-time service of a political subdivision of this state not

57 credited to the member under an agreement as provided for in § 51.1-143.1, as certified by such political
 58 subdivision; ~~(iv)~~ (vi) civilian service of the United States; ~~(v)~~ ~~creditable~~ (vii) full-time service at a
 59 private institution of higher education if the private institution is merged with a public institution of
 60 higher education and graduates of the private institution are then issued new degrees from the public
 61 institution; or ~~(vi)~~ (viii) any period of time when the member was employed part time or in a wage
 62 position by a participating employer and not otherwise eligible to participate in the retirement system
 63 because the member was not an employee as defined in § 51.1-124.3. However, no member in service
 64 shall be allowed to purchase more than a total of four years of service credit pursuant to this
 65 subdivision.

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

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

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

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

89 For purposes of this subsection section, "active duty military service" means full-time service of at
 90 least 180 consecutive days in the United States Army, Navy, Air Force, Marines, Coast Guard, or
 91 reserve components thereof.

92 2. Any member (i) granted a leave of absence for educational purposes may purchase service credit
 93 for such leave of absence, or (ii) granted any unpaid leave of absence due to the birth or adoption of a
 94 child may purchase up to one year of service credit per occurrence of leave.

95 C. B. Any member in service may purchase all prior service credit for creditable service lost from
 96 ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his
 97 accumulated contributions. Notwithstanding any other provision in this section, the cost to purchase such
 98 service shall be five percent of his creditable compensation or five percent of his average final
 99 compensation, whichever is greater, unless the member in service is purchasing such service through a
 100 pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such
 101 service shall be five percent of his creditable compensation, provided, however, that the applicable cost
 102 for a person enrolled in the hybrid retirement program described in § 51.1-169 shall be four percent. If
 103 the member purchases or enters into a contract to purchase such service within three years of the date he
 104 became eligible to purchase the service, then the service may be purchased in a lump sum at the time of
 105 purchase or through an additional payroll deduction. Any purchase of such service made at a time later
 106 than such period shall be made in a lump sum at the time of purchase. For each year or portion thereof
 107 to be credited at the time of purchase under this subsection, the member shall pay the withdrawn
 108 amount to be purchased plus interest accrued daily and compounded annually from the date of
 109 withdrawal to the date of payment at the assumed rate of return established by the Board for the
 110 actuarial valuation of the retirement system that is in effect at the time of the purchase. The Board shall
 111 develop guidelines and procedures for administering this subsection.

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

116 E. D. Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et
 117 seq.) may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase

118 service credit for service that is not reported to the retirement system by the member's employer while
119 the member is receiving such benefits. Notwithstanding any other provision in this section, the cost to
120 purchase such service shall be five percent of the member's creditable compensation.

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

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

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

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

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

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

150 G. The service credit to be credited to a member under this section shall be calculated at the ratio of
151 one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased,
152 except for part-time service purchased under clause (vi) of subdivision B 1 which shall be calculated at
153 the ratio of one month of service credit for each 173 hours of service as certified by the employer and
154 as purchased by the member. Up to a maximum of four years of service credit may be purchased for
155 each of clauses (i) through (vi) of subdivision B 1 and clauses (i) and (ii) of subdivision B 2. In
156 addition, a member in service may purchase service credit for every year or portion thereof for service
157 lost from cessation of membership as described in subsection C.

158 Except as otherwise required by Chapter 1223 of Title 40 of the United States Code, the service
159 credit made available under this section may not be purchased if, before being purchased or at the time
160 of such purchase pursuant to this section, the service to be purchased is service that is included in the
161 calculation of any retirement allowance received or to be received by the member from this or another
162 retirement system.

163 H. Any member may receive credit at no cost for service rendered in the armed forces of the United
164 States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from
165 a period of active duty with the armed forces was not dishonorable, (iii) the member has not withdrawn
166 his accumulated contributions, (iv) the member is not disabled or killed while on leave without pay
167 while performing active duty military service in the armed forces of the United States, and (v) the
168 member reenters service in a covered position within one year after discharge from the armed forces. In
169 order to receive such service, the member must complete such forms and other requirements as are
170 required by the Board and the retirement system.

171 **§ 51.1-142.3. Purchase of additional prior service credit by certain school division**
172 **superintendents.**

173 A. In addition to the four years of prior service credit that may be purchased under clause (ii) (iv) of
174 subdivision B A 1 of § 51.1-142.2, a school division superintendent appointed by a school board
175 pursuant to § 22.1-60, with at least five years of creditable service in the Retirement System, may
176 purchase up to a maximum of 10 additional years of prior service credit for creditable service of another
177 state or of a political subdivision, or public school system of this or another state, as certified by such
178 state, political subdivision, or public school system. Except as otherwise required by Chapter 1223 of

179 Title 10 of the United States Code, the service credit made available under this section may not be
180 purchased if, before being purchased or at the time of such purchase pursuant to this section, the service
181 to be purchased is service that is included in the calculation of any retirement allowance received or to
182 be received by the member from this or any other retirement system.

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

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

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

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

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

198 3. For members not in service on June 30, 2003, upon the member earning five years of creditable
199 service as a school division superintendent in the Retirement System for service performed after June
200 30, 2003.

201 C. In any case in which prior service credit pursuant to this section has been purchased by or on
202 behalf of a school division superintendent, if the school division superintendent, subsequent to the date
203 of such purchase, does not remain in such position with the local school board for at least the number
204 of years purchased: (i) the Retirement System shall reduce the creditable service credited to the school
205 division superintendent by an amount equivalent to the number of years of prior service purchased less
206 the number of years served by the person as a school division superintendent with the local school
207 board subsequent to the date of such purchase. Such reduction in creditable service shall be deemed to
208 be forfeited by the school division superintendent for purposes of this chapter and the contributions
209 representing that forfeited service shall be refunded to the school division superintendent; and (ii) the
210 school division superintendent shall be liable to the local school board for the amount paid by the local
211 school board for purchasing the forfeited prior service credit.

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

216 **2. That the provisions of this act shall become effective on January 1, 2017.**