

15105185D

**HOUSE BILL NO. 1890**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee on Finance  
on February 17, 2015)

(Patron Prior to Substitute—Delegate Jones)

*A BILL to amend and reenact §§ 51.1-142.2 and 51.1-142.3 of the Code of Virginia, relating to the Virginia Retirement System; purchase of prior service credit.*

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

**1. That § 51.1-142.2 of the Code of Virginia is 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 (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 service of another state or of a political subdivision or public school system of this or another state, as certified by such state, political subdivision or public school system; (iii) creditable service of a political subdivision of this state not credited to the member under an agreement as provided for in § 51.1-143.1, as certified by such political subdivision; (iv) civilian service of the United States; (v) creditable service at a private institution of higher education if the private institution is merged with a public institution of higher education and graduates of the private institution are then issued new degrees from the public institution; or (vi) any period of time when the member was employed by a participating employer and not otherwise eligible to participate in the retirement system because the member was not an employee as defined in § 51.1-124.3.

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

SENATE SUBSTITUTE

HB1890S1

60 components thereof.

61 2. Any member (i) granted a leave of absence for educational purposes may purchase service credit  
62 for such leave of absence; or (ii) granted any unpaid leave of absence due to the birth ~~or~~, adoption, *or*  
63 *death* of a *qualifying* child, *as defined in § 51.1-500*, may purchase up to one year of service credit per  
64 occurrence of leave.

65 C. Any member in service may purchase service credit for creditable service lost from ceasing to be  
66 a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated  
67 contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall  
68 be five percent of his creditable compensation or five percent of his average final compensation,  
69 whichever is greater, unless the member in service is purchasing such service through a pre-tax or  
70 post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall  
71 be five percent of his creditable compensation, provided, however, that the applicable cost for a person  
72 enrolled in the hybrid retirement program described in § 51.1-169 shall be four percent. If the member  
73 purchases or enters into a contract to purchase such service within three years of the date he became  
74 eligible to purchase the service, then the service may be purchased in a lump sum at the time of  
75 purchase or through an additional payroll deduction. Any purchase of such service made at a time later  
76 than such period shall be made in a lump sum at the time of purchase.

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

81 E. Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et  
82 seq.) may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase  
83 service credit for service that is not reported to the retirement system by the member's employer while  
84 the member is receiving such benefits. Notwithstanding any other provision in this section, the cost to  
85 purchase such service shall be five percent of the member's creditable compensation.

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

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

93 2. All other years of service the employer shall purchase at an actuarial equivalent cost.

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

102 Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service  
103 credit made available under this section may not be purchased if, before being purchased or at the time  
104 of such purchase pursuant to this section, the service to be purchased is service that is included in the  
105 calculation of any retirement allowance received or to be received by the member from this or another  
106 retirement system.

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

115 **2. That §§ 51.1-142.2 and 51.1-142.3 of the Code of Virginia are amended and reenacted effective**  
116 **January 1, 2017, as follows:**

117 **§ 51.1-142.2. Prior service or membership credit for certain members; service credit for**  
118 **accumulated sick leave.**

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

120 A. ~~Except as provided in subdivisions 1 and 2, in order to receive credit for the service made~~  
121 ~~available in subsection B, a member in service shall be required to make a payment for each year, or~~

122 portion thereof, to be credited at the time of purchase, equal to five percent of his creditable  
123 compensation or five percent of his average final compensation, whichever is greater, unless the member  
124 in service is purchasing the service made available in subsection B through a pre-tax or post-tax  
125 deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five  
126 percent of his creditable compensation.

127 1. A person who becomes a member on or after July 1, 2010, or a member who does not have at  
128 least 60 months of creditable service as of January 1, 2013, shall pay an amount equal to a rate  
129 approximating the normal cost for the retirement program under which the member is covered, with  
130 such rate for each retirement program to be determined by the Board, and reviewed by the Board no  
131 less than every six years. However, if the member does not purchase, or enter into a purchase of service  
132 contract for the service made available in subsection B within one year from his first date of hire or  
133 within one year of the final day of any leave of absence under subdivision B 2, as applicable, then, for  
134 each year or portion thereof to be credited at the time of purchase, the member shall pay an amount  
135 equal to the actuarial equivalent cost.

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

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

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

153 B. 1. Any member in service may purchase prior service credit for from the following categories of  
154 service or leave: (i) active duty military service in the armed forces of the United States, provided that  
155 the discharge from a period of active duty status with the armed forces was not dishonorable; (ii)  
156 creditable leave of absence for educational purposes that was previously approved by the member's  
157 employer; (ii) leave of absence for a serious health condition of the member or of an immediate family  
158 member, all as defined in the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq., as  
159 amended, and previously certified by the member's employer; (iii) up to one year of service credit per  
160 occurrence of leave for any unpaid leave of absence due to the birth, adoption, or death of a qualifying  
161 child, as defined in § 51.1-500; (iv) service as a full-time employee of another state or of, a public  
162 school system of another state, or a political subdivision or public school system of this the  
163 Commonwealth or another state, as certified by such state, public school system, or political subdivision  
164 or public school system (iii) creditable; (v) full-time service of a political subdivision of this state the  
165 Commonwealth not credited to the member under an agreement as provided for in § 51.1-143.1, as  
166 certified by such political subdivision; (iv) (vi) civilian service of the United States; (v) creditable (vii)  
167 full-time service at a private institution of higher education if the private institution is merged with a  
168 public institution of higher education and graduates of the private institution are then issued new degrees  
169 from the public institution; or (vi) (viii) any period of time when the member was employed part time  
170 or in a wage position by a participating employer and not otherwise eligible to participate in the  
171 retirement system because the member was not an employee as defined in § 51.1-124.3. However, no  
172 member in service shall be allowed to purchase more than a total of four years of service credit  
173 pursuant to this subdivision.

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

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

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

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

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

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

203 C. B. Any member in service may purchase all prior service credit for creditable service lost from  
204 ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his  
205 accumulated contributions. Notwithstanding any other provision in this section, the cost to purchase such  
206 service shall be five percent of his creditable compensation or five percent of his average final  
207 compensation, whichever is greater, unless the member in service is purchasing such service through a  
208 pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such  
209 service shall be five percent of his creditable compensation, provided, however, that the applicable cost  
210 for a person enrolled in the hybrid retirement program described in § 51.1-169 shall be four percent. If  
211 the member purchases or enters into a contract to purchase such service within three years of the date he  
212 became eligible to purchase the service, then the service may be purchased in a lump sum at the time of  
213 purchase or through an additional payroll deduction. Any purchase of such service made at a time later  
214 than such period shall be made in a lump sum at the time of purchase. For each year or portion thereof  
215 to be credited at the time of purchase under this subsection, the member shall pay the withdrawn  
216 amount to be purchased plus interest accrued daily and compounded annually from the date of  
217 withdrawal to the date of payment at the assumed rate of return established by the Board for the  
218 actuarial valuation of the retirement system that is in effect at the time of the purchase. The Board shall  
219 develop guidelines and procedures for administering this subsection.

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

224 E. D. Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et  
225 seq.) may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase  
226 service credit for service that is not reported to the retirement system by the member's employer while  
227 the member is receiving such benefits. Notwithstanding any other provision in this section, the cost to  
228 purchase such service shall be five percent of the member's creditable compensation.

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

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

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

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

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

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

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

266 Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service  
 267 credit made available under this section may not be purchased if, before being purchased or at the time  
 268 of such purchase pursuant to this section, the service to be purchased is service that is included in the  
 269 calculation of any retirement allowance received or to be received by the member from this or another  
 270 retirement system.

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

279 **§ 51.1-142.3. Purchase of additional prior service credit by certain school division**  
 280 **superintendents.**

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

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

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

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

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

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

306 3. For members not in service on June 30, 2003, upon the member earning five years of creditable  
307 service as a school division superintendent in the Retirement System for service performed after June  
308 30, 2003.

309 C. In any case in which prior service credit pursuant to this section has been purchased by or on  
310 behalf of a school division superintendent, if the school division superintendent, subsequent to the date  
311 of such purchase, does not remain in such position with the local school board for at least the number  
312 of years purchased: (i) the Retirement System shall reduce the creditable service credited to the school  
313 division superintendent by an amount equivalent to the number of years of prior service purchased less  
314 the number of years served by the person as a school division superintendent with the local school  
315 board subsequent to the date of such purchase. Such reduction in creditable service shall be deemed to  
316 be forfeited by the school division superintendent for purposes of this chapter and the contributions  
317 representing that forfeited service shall be refunded to the school division superintendent; and (ii) the  
318 school division superintendent shall be liable to the local school board for the amount paid by the local  
319 school board for purchasing the forfeited prior service credit.

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