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SENATE BILL NO. 942

Senate Amendments in [ ] - February 5, 2015

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

Patron Prior to Engrossment—Senator Stuart

Referred to Committee on Finance

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.

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SB942E

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

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

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

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

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

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

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

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

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

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

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