

HOUSE BILL NO. 1630

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on February 15, 2023)

(Patron Prior to Substitute--Delegate Coyner)

A BILL to amend and reenact §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia, relating to Virginia Retirement System; return to work.

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

**1. That §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-23. Duties in general.**

The Superintendent of Public Instruction shall:

1. Serve as secretary of the Board of Education;

2. Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;

3. Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;

4. (Expires July 1, 2025) At least annually, survey all local school divisions to identify critical shortages of (i) teachers and administrative personnel by geographic area, by school division, or by subject matter, (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2, and ~~(ii)~~ (iii) school bus drivers by geographic area and local school division and report such critical shortages to each local school division and to the Virginia Retirement System;

5. Develop and provide to local school divisions a model exit questionnaire for teachers;

6. Along with the State Health Commissioner, work to combat childhood obesity and other chronic health conditions that affect school-age children;

26 7. Designate an employee of the Department of Education to serve as its liaison to the State Council  
27 of Higher Education for Virginia and the State Board for Community Colleges; and

28 8. Perform such other duties as the Board of Education may prescribe.

29 **§ 22.1-70.3. (Expires July 1, 2025) Designation of teacher shortage areas.**

30 Each division superintendent shall at least annually, if so requested by the local school board  
31 pursuant to subdivision 9 of § 22.1-79, survey the relevant local school division to identify critical  
32 shortages of (i) teachers and administrative personnel by subject matter, (ii) specialized student support  
33 positions as that term is described in subsection O of § 22.1-253.13:2, and ~~(ii)~~ (iii) school bus drivers and  
34 report such critical shortages to the school board, Superintendent of Public Instruction, and to the Virginia  
35 Retirement System.

36 **§ 22.1-79. Powers and duties.**

37 A school board shall:

38 1. See that the school laws are properly explained, enforced and observed;

39 2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public  
40 schools in the school division and take care that they are conducted according to law and with the utmost  
41 efficiency;

42 3. Care for, manage and control the property of the school division and provide for the erecting,  
43 furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances  
44 and the maintenance thereof by purchase, lease, or other contracts;

45 4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil  
46 assignment plans whenever such procedure will contribute to the efficiency of the school division;

47 5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate  
48 and maintain the public schools in the school division and determine the length of the school term, the  
49 studies to be pursued, the methods of teaching and the government to be employed in the schools;

50 6. In instances in which no grievance procedure has been adopted prior to January 1, 1991,  
51 establish and administer by July 1, 1992, a grievance procedure for all school board employees, except  
52 the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et

53 seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary  
54 period as may be required by the school board, not to exceed 18 months. The grievance procedure shall  
55 afford a timely and fair method of the resolution of disputes arising between the school board and such  
56 employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be  
57 consistent with the provisions of the Board of Education's procedures for adjusting grievances. Except in  
58 the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the  
59 Board of Education pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except  
60 supervisory employees;

61           7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed  
62 by law;

63           8. Obtain public comment through a public hearing not less than 10 days after reasonable notice  
64 to the public in a newspaper of general circulation in the school division prior to providing (i) for the  
65 consolidation of schools; (ii) the transfer from the public school system of the administration of all  
66 instructional services for any public school classroom or all noninstructional services in the school  
67 division pursuant to a contract with any private entity or organization; or (iii) in school divisions having  
68 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any  
69 pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily  
70 membership in the affected school. Such public hearing may be held at the same time and place as the  
71 meeting of the school board at which the proposed action is taken if the public hearing is held before the  
72 action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed  
73 consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date  
74 of this provision, an additional public hearing shall not be required;

75           9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages  
76 of (i) teachers and administrative personnel by subject matter, (ii) specialized student support positions as  
77 that term is described in subsection O of § 22.1-253.13:2, and ~~(ii)~~ (iii) school bus drivers and report such  
78 critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System;

79 however, the school board may request the division superintendent to conduct such survey and submit  
80 such report to the school board, the Superintendent, and the Virginia Retirement System; and

81 10. Ensure that the public schools within the school division are registered with the Department of  
82 State Police to receive from the State Police electronic notice of the registration, reregistration, or  
83 verification of registration information of any person required to register with the Sex Offender and  
84 Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school  
85 division pursuant to § 9.1-914.

86 **§ 51.1-155. Service retirement allowance.**

87 A. Retirement allowance. — A member shall receive an annual retirement allowance, payable for  
88 life, as follows:

89 1. Normal retirement. — The allowance shall equal 1.70 percent of his average final compensation  
90 multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i)  
91 is a person who becomes a member on or after July 1, 2010, or (ii) does not have at least 60 months of  
92 creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his  
93 average final compensation multiplied by the amount of his creditable service performed or purchased on  
94 or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the amount  
95 of all other creditable service.

96 2. Early retirement; applicable to teachers, state employees, and certain others. — The allowance  
97 shall be determined in the same manner as for normal retirement with creditable service and average final  
98 compensation being determined as of the date of actual retirement. If the member has less than 30 years  
99 of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent  
100 basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement  
101 date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The  
102 provisions of this subdivision shall apply to teachers and state employees. These provisions shall also  
103 apply to employees of any political subdivision that participates in the retirement system if the political  
104 subdivision makes the election provided in subdivision 3.

105           3. Early retirement; applicable to employees of certain political subdivisions, any person who  
106 becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of  
107 creditable service as of January 1, 2013. — The allowance shall be determined in the same manner as for  
108 normal retirement with creditable service and average final compensation being determined as of the date  
109 of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his  
110 age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement  
111 allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement  
112 date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then  
113 attained age plus his then creditable service would have been equal to 90 or more had he remained in  
114 service until such date. If the member has less than 30 years of creditable service, the retirement allowance  
115 shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal  
116 retirement date or (ii) the first date on which he would have completed a total of at least 30 years of  
117 creditable service and his then creditable service plus his then attained age would have been equal to 90  
118 or more.

119           The provisions of this subdivision shall apply to the employees of any political subdivision that  
120 participates in the retirement system and any other employees as provided by law. The participating  
121 political subdivision may, however, elect to provide its employees with the early retirement allowance set  
122 forth in subdivision 2. No such election shall be made for a person who becomes a member on or after  
123 July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1,  
124 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

125           Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare  
126 to the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of § 51.1-  
127 153, any person who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or  
128 is employed as a firefighter or law-enforcement officer as those terms are defined in § 15.2-1512.2 (i)  
129 shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed  
130 to have at least 60 months of creditable service as of January 1, 2013. Such resolution shall be irrevocable.

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

138           5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to  
139 the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated  
140 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's  
141 accumulated contributions, including accrued interest.

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

143           1. Except as provided in subdivisions 2, 3, and 4, if a beneficiary of a service retirement allowance  
144 under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§  
145 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes  
146 under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et  
147 seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who  
148 retires and later returns to covered employment shall not be entitled to select a different retirement option  
149 for a subsequent retirement.

150           2. Active members of the General Assembly who are eligible to receive a retirement allowance  
151 under this title, excluding their service as a member of the General Assembly, shall be eligible to receive  
152 a retirement allowance based on their creditable service and average final compensation for service other  
153 than as a member of the General Assembly. Such members of the General Assembly shall continue to be  
154 reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly,  
155 members of the General Assembly receiving a retirement allowance based on their creditable service and  
156 average final compensation for service other than as a member of the General Assembly shall have their  
157 retirement allowance recomputed prospectively to include their service as a member of the General

158 Assembly. Active members of the General Assembly shall be prohibited from receiving a service  
159 retirement allowance under this title based solely on their service as a member of the General Assembly.

160 3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter,  
161 who is hired by a local public school board (i) as an instructional or administrative employee required to  
162 be licensed by the Board of Education, (ii) in a specialized student support position as that term is  
163 described in subsection O of § 22.1-253.13:2, or (iii) as a school bus driver, may elect to continue to  
164 receive the retirement allowance during such employment, under the following conditions:

165 (a) ~~The person has been receiving such retirement allowance for at least 12 calendar months~~  
166 ~~preceding his employment~~ has a bona fide break in service of at least six calendar months between  
167 retirement and returning to work full time for a local public school board;

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

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

174 If the person elects to continue to receive the retirement allowance during the period of such  
175 employment, then his service performed and compensation received during such period of time will not  
176 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment,  
177 nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter  
178 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership  
179 payroll subject to employer contributions under § 51.1-145.

180 4. Any person receiving a service retirement allowance under this title for service as a sworn law-  
181 enforcement officer and who is employed in a local school division as a school security officer, as defined  
182 in § 9.1-101, may elect to continue to receive the retirement allowance during such employment under the  
183 following conditions: (i) the person has a break in service of at least ~~12~~ six calendar months between  
184 retirement for service as a sworn law-enforcement officer and employment as a school security officer;

185 (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from  
186 any local school division within the Commonwealth; (iii) the person is not receiving a retirement benefit  
187 pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv)  
188 the person did not participate in any incentive program established under the second or third enactment of  
189 Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to receive the  
190 retirement allowance during the period of such employment, then his service performed and compensation  
191 received during such period of time will not increase, decrease, or affect in any way his retirement benefits  
192 before, during, or after such employment, nor shall such person be eligible to receive any retirement  
193 benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall  
194 include the person's compensation in membership payroll subject to employer contributions under § 51.1-  
195 145.

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

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

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