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**HOUSE BILL NO. 1171**

Offered January 14, 2004

Prefiled January 14, 2004

*A BILL to amend and reenact §§ 22.1-79 and 51.1-155 of the Code of Virginia, and to amend Chapter 6 of Title 22.1 of the Code of Virginia by adding a section numbered 22.1-70.3, relating to rehiring of retired teachers.*

Patron—Dillard

Referred to Committee on Education

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

**1. That §§ 22.1-79 and 51.1-155 of the Code of Virginia are amended and reenacted, and that Chapter 6 of Title 22.1 of the Code of Virginia is amended by adding a section numbered 22.1-70.3 as follows:**

*§ 22.1-70.3. Designation of teacher shortage areas.*

*Each division superintendent shall at least annually, if so requested by the local school board pursuant to subdivision 9 of § 22.1-79, survey the relevant local school division to identify critical shortages of teachers and administrative personnel by subject matter and report such critical shortages to the school board, Superintendent of Public Instruction, and to the Virginia Retirement System.*

*§ 22.1-79. Powers and duties.*

A school board shall:

1. See that the school laws are properly explained, enforced and observed;
2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;
3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;
4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;
5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;
6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed eighteen months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal, suspension, or other disciplinary actions and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances except that there shall be no right to a hearing before a fact-finding panel;

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

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

9. At least annually, survey the school division to identify critical shortages of teachers and administrative personnel by subject matter, and report such critical shortages to the Superintendent of

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59 *Public Instruction and to the Virginia Retirement System; however, the school board may request the*  
60 *division superintendent to conduct such survey and submit such report to the school board, the*  
61 *Superintendent, and the Virginia Retirement System.*

62 § 51.1-155. Service retirement allowance.

63 A. Retirement allowance. - A member shall receive an annual retirement allowance, payable for life,  
64 as follows:

65 1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation  
66 multiplied by the amount of his creditable service.

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

76 3. Early retirement; applicable to employees of certain political subdivisions. - The allowance shall  
77 be determined in the same manner as for normal retirement with creditable service and average final  
78 compensation being determined as of the date of actual retirement. If the creditable service of the  
79 member equals 30 or more years but the sum of his age at retirement plus his creditable service at  
80 retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial  
81 equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal  
82 retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable  
83 service would have been equal to 90 or more had he remained in service until such date. If the member  
84 has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by  
85 which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date  
86 on which he would have completed a total of at least 30 years of creditable service and his then  
87 creditable service plus his then attained age would have been equal to 90 or more.

88 The provisions of this subdivision shall apply to the employees of any political subdivision that  
89 participates in the retirement system. The participating political subdivision may, however, elect to  
90 provide its employees with the early retirement allowance set forth in subdivision 2 of this subsection.  
91 Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

92 4. Additional allowance. - In addition to the allowance payable under subdivisions 1, 2, and 3 of this  
93 subsection, a member shall receive an additional allowance which shall be the actuarial equivalent, for  
94 his attained age at the time of retirement, of the excess of his accumulated contributions transferred from  
95 the abolished system to the retirement system, including interest credited at the rate of two percent  
96 compounded annually since the transfer to the date of retirement, over the annual amounts equal to four  
97 percent of his annual creditable compensation at the date of abolishment for a period equal to his period  
98 of membership in the abolished system.

99 5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the  
100 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated  
101 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's  
102 accumulated contributions, including accrued interest.

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

104 1. Except as provided in subdivisions 2 and 3, if a beneficiary of a service retirement allowance  
105 under this chapter is at any time in service as an employee in a position covered for retirement purposes  
106 under the provisions of this or any chapter other than Chapter 7 (§ 51.1-700 et seq.) of this title, his  
107 retirement allowance shall cease while so employed. Any member who retires and later returns to  
108 covered employment shall not be entitled to select a different retirement option for a subsequent  
109 retirement.

110 2. Active members of the General Assembly who are eligible to receive a retirement allowance under  
111 this title, excluding their service as a member of the General Assembly, shall be eligible to receive a  
112 retirement allowance based on their creditable service and average final compensation for service other  
113 than as a member of the General Assembly. Such members of the General Assembly shall continue to  
114 be reported as any other members of the retirement system. Upon ceasing to serve in the General  
115 Assembly, members of the General Assembly receiving a retirement allowance based on their creditable  
116 service and average final compensation for service other than as a member of the General Assembly  
117 shall have their retirement allowance recomputed prospectively to include their service as a member of  
118 the General Assembly. Active members of the General Assembly shall be prohibited from receiving a  
119 service retirement allowance under this title based solely on their service as a member of the General  
120 Assembly.

121 3. (Effective if contingency is met and expires July 1, 2005 - See note) Any person receiving a  
122 service retirement allowance under this chapter, who is hired as a local school board instructional or  
123 administrative employee required to be licensed by the Board of Education, may elect to continue to  
124 receive the retirement allowance during such employment, under the following conditions:

125 a. The person's retirement allowance is based in whole or in part on service as a local school board  
126 instructional or administrative employee required to be licensed by the Board of Education; and

127 b. The person has been receiving such retirement allowance for a period of at least 30 days  
128 preceding his employment; and

129 c. At the time the person is employed, the position to which he is assigned is among those identified  
130 by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23; and

131 d. The person is hired pursuant to a contract that does not exceed one year in duration.

132 e. [Repealed.]

133 Nothing in this subdivision shall be construed to restrict the total number of years that any one  
134 person may participate under the provisions of this subdivision, provided that all applicable conditions  
135 are met.

136 If the person elects to continue to receive the retirement allowance during the period of such  
137 employment, then his service performed and compensation received during such period of time will not  
138 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

139 3. (Effective if contingency is not met and expires July 1, 2005 - See note) Any person receiving a  
140 service retirement allowance under this chapter, who is hired as a local school board instructional or  
141 administrative employee required to be licensed by the Board of Education, may elect to continue to  
142 receive the retirement allowance during such employment, under the following conditions:

143 (a) The person's retirement allowance is based in whole or in part on service as a local school board  
144 instructional or administrative employee required to be licensed by the Board of Education;

145 (b) The person has been receiving such retirement allowance for a certain period of time preceding  
146 his employment as provided by law;

147 (c) The person is not receiving a retirement benefit pursuant to an early retirement incentive program  
148 from any local school division within the Commonwealth; and

149 (d) At the time the person is employed, the position to which he is assigned is among those  
150 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, *by the*  
151 *relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant*  
152 *to subdivision 9 of § 22.1-79.*

153 If the person elects to continue to receive the retirement allowance during the period of such  
154 employment, then his service performed and compensation received during such period of time will not  
155 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

156 **2. That an emergency exists and this act is in force from its passage.**

157 **3. That the provisions of this act shall expire on July 1, 2005.**