

## Virginia Retirement System 2014 Fiscal Impact Statement

**1. Bill Number:** HB 181

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Farrell

**3. Committee:** Appropriations

**4. Title:** **Virginia Retirement System; collection of overpayments to retirees and beneficiaries.**

**5. Summary:** Prohibits VRS from collecting overpayments made to a retiree or beneficiary if the proximate cause of the overpayment was a computational error made by VRS or one of its employees, subsidiaries, affiliates, agents, or contractors and the retiree or beneficiary could not reasonably have been expected to detect the error or overpayment. Under the bill, VRS would correct the error as soon as practicable in order that the amount legally due would be paid to the retiree or beneficiary on a going forward basis.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** This bill would prohibit the collection of overpayments related to past or future changes or errors that result in a member receiving an overpayment due to a VRS error that the member or beneficiary would not reasonably have been expected to detect. As of January 2014, VRS had approximately \$23 million in overpayments outstanding, all caused by a computational error in the calculation of the 2009 cost of living allowance (COLA). This error affected approximately 133,000 retirees. VRS corrected the error for future payments and authorized retirees to repay prior overpayments upon any Group Life Insurance distribution. Some retirees simply wrote a check to VRS in the amount of the overpayment, but many chose to repay by having the overpayment subtracted from any life insurance distribution. HB 181 would prohibit VRS from collecting outstanding overpayments due to a VRS error, including those from the 2009 COLA computational error, in this manner. The inability to recoup all overpayments that are a result of a computational error would increase VRS unfunded liabilities. HB 181 would not preclude the corrected recalculation of benefits on a prospective basis.

**8. Fiscal Implications:** See Fiscal Impact Estimates above. An immediate increase in unfunded liabilities of \$23 million would occur.

**9. Specific Agency or Political Subdivisions Affected:** VRS and its members, beneficiaries and retirees who may have an overpayment.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** This bill would prohibit VRS from collecting from a member or beneficiary any prior overpayment proximately caused by a computational error by VRS, its employees, subsidiaries, affiliates, agents, or contractors, if the member could not reasonably have been expected to detect the error or overpayment. Under the bill, the Board would be allowed to correct the records as soon as practicable on a going forward basis, but could not collect prior overpayments. The bill specifically prohibits the Board from collecting overpayments from group life insurance proceeds payable under subsection B of § 51.1-510 under these circumstances.

As a plan fiduciary, VRS is required to act in the best interests of the trust fund and all of its members and beneficiaries. Authorization has been put in place in the *Code* to allow the Board to recoup erroneous overpayments in order to make the fund whole, although the Board does have the ability to waive recovery where the Board believes it would constitute a hardship (§ 51.1-124.9 (A) (2)). Without this authorization to recoup overpayments, VRS would be unable to continue to act in the best interest of all fund participants in the event of overpayment situations. It is also incumbent upon VRS, to the extent possible, to ensure that participants receive only the benefit to which they are legally entitled, and to protect the integrity of the fund so that future benefits and participants are protected. If overpayments are not recovered where possible, it could lead to additional costs borne by Virginia taxpayers.

**Date:** 01.17.14

**Document:** HB181.DOC