

## Virginia Retirement System 2016 Fiscal Impact Statement

**1. Bill Number:** HB1153

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Kilgore

**3. Committee:** Courts of Justice

**4. Title:** Temporary recall of retired judges; who may be recalled

**5. Summary:** Allows persons retired prior to July 1, 2015 under the Virginia Retirement System to sit as temporary recalled judges if they have prior service as a judge and such persons do not engage in the practice of law within or without the Commonwealth.

**6. Budget Amendment Necessary:** No

**7. Fiscal Impact Estimates:** Any fiscal impact would be minimal.

**8. Fiscal Implications:** See Fiscal Impact Estimates above.

**9. Specific Agency or Political Subdivisions Affected:** VRS, Judges and Employers of Judges.

**10. Technical Amendment Necessary:** Yes, in order to keep this provision consistent with the mandatory retirement age for judges and justices in § 51.1-305. In 2015, the mandatory retirement age increased from age 70 to age 73 effective July 1, 2015 for justices of the Supreme Court of Virginia and judges of the Court of Appeals of Virginia. For judges of the circuit, general district, and juvenile and domestic relations district courts, the mandatory retirement age increase applies only to those who are elected or appointed to an original or subsequent term commencing on or after July 1, 2015.

Subsection B of § 17.1-106 states, “It shall be the obligation of any retired judge or justice who is recalled to temporary service under this section and who has not attained age seventy to accept the recall and perform the duties assigned. It shall be within the discretion of any justice or judge who has attained age seventy to accept such recall.”

The technical amendment would be to change “age seventy” in this subsection to read “the mandatory retirement age described in § 51.1-305” to account for the staggered application of the increased mandatory retirement age.

Suggested amendment to subsection B of § 17.1-106:

B. It shall be the obligation of any retired judge or justice who is recalled to temporary service under this section and who has not attained ~~age seventy~~*the mandatory retirement age described in § 51.1-305* to accept the recall and perform the duties assigned. It shall be within the discretion of any justice or judge who has attained *such mandatory retirement age* ~~seventy~~ to accept such recall.

NOTE: The technical change would be unnecessary if HB1245 is enacted. That bill would make the mandatory retirement age of 73 applicable to all judges regardless of appointment date.

**11. Other Comments:** Section 17.1-106 allows the Chief Justice of the Supreme Court to recall to temporary service any justice or judge of a court of record who is retired under the Judicial Retirement System. The proposed legislation adds persons who transferred service from the Judicial Retirement System to the Virginia Retirement System and retired under the Virginia Retirement System prior to July 1, 2015 to those who may be temporarily recalled for service as a judge or justice. As of the most recent data and analysis available (June 30, 2015), there were 16 persons who met this criteria. There will be no additional individuals affected by this legislation as it is currently written since the bill applies to those who retired prior to July 1, 2015. Also, although the recall procedures under § 17.1-106 are not changed by the bill, the persons affected by this bill are not subject to recall if they otherwise “engage in the practice of law within or without the Commonwealth.” Retirees of the Judicial Retirement System are precluded from appearing as counsel in any case in any court of the Commonwealth under § 51.1-309, which is a different criterion.

**Date:** 01-26-2016

**Document:** HB1153.DOC/VRS