Virginia Retirement System
2016 Fiscal Impact Statement

1. **Bill Number:** HB 409

   House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

   Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron:** Ingram

3. **Committee:** Referral pending

4. **Title:** The Virginia Retirement System; technical corrections.

5. **Summary:** Makes technical corrections to programs administered by the Virginia Retirement System, some of which will become effective on January 1, 2017.

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

7. **Fiscal Impact Estimates:** None.

8. **Fiscal Implications:** None.

9. **Specific Agency or Political Subdivisions Affected:** VRS, participating employers, and VRS members.

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

11. **Other Comments:** This bill is an omnibus technical corrections bill requested by the VRS Board of Trustees. This bill includes three technical changes to various provisions of Title 51.1. Two of the technical corrections relate to HB 1890 (Chapter 508 of the 2015 Acts of Assembly), which was enacted by the 2015 General Assembly with a delayed effective date of January 1, 2017. HB 1890 included a number of reforms related to the Virginia Retirement System's ("VRS") purchase of prior service program.

    The text of HB 1890 included a new provision, enacted in 2015 as SB 942 (Chapter 536 of the 2015 Acts of Assembly), that permits the purchase of service credit for an unpaid leave of absence due to the death of a "qualified child, as defined in § 51.1-500." Section 51.1-500, however, uses the defined term "qualifying child." This bill would substitute the correct defined term of "qualifying child" in the text that becomes effective January 1, 2017.

    As a practical matter, this bill simply corrects an error related to a cross-reference. The correction reverts the current language, "[f]or purposes of this section," on line 55 of the bill to "[f]or purposes of this subsection." By way of background, HB 1890 also reorganized § 51.1-142.2, which sets out the provisions governing the purchase of prior service. As part of the reorganization, the definition of "active duty military service" was inadvertently applied to two separate types of eligible military service. The definition should only apply to prior

active duty military service that an individual performed before becoming a VRS member ("prior military service"). The definition was also applied to active duty military service performed by a VRS member while on a leave of absence from a VRS-covered position ("military leave"). This could have inadvertently prevented a member from being granted all of the service to which he or she would have been entitled.

Military leave is regulated by the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), and the application of the definition of "active duty military service" to the category of military leave would be inconsistent with the provisions of USERRA. Consequently, this bill corrects the language so that "active duty military service" only applies to the category of prior military service when the provisions of HB 1890 become effective on January 1, 2017 and ensures that the *Code* is consistent with the provisions of USERRA.

Hybrid Retirement Plan

This bill's final technical correction relates to the administration of the Hybrid Retirement Plan, which became effective January 1, 2014. The Hybrid Plan consists of both a defined benefit ("DB") component and a defined contribution ("DC") component. Within the DC component of the Hybrid Plan, a member maintains a 401(k)-style account that is made up of member contributions, employer matching contributions, and investment earnings thereon. If a member ceases employment in a VRS-covered position and takes a refund of contributions before being vested in the DC component (four years of service), then he or she forfeits certain employer-paid contributions to the DC component.

Section 51.1-169 (B)(3)(c) currently states that such a forfeiture occurs when a VRS member "terminates employment with an employer prior to achieving 100 percent vesting." This means that a member who terminates employment with one covered employer and immediately begins employment with another covered employer would still have to forfeit his or her employer contributions to the DC component, even though there has been no break in VRS-covered service. The current wording would also create a forfeiture situation even if the member has deferred retirement and has not requested a refund of contributions.

This legislation would correct the provision so that employer contributions are forfeited only when a VRS member "ceases to be a member prior to achieving 100 percent vesting." In order for an individual to cease to be a VRS member, he or she must separate from covered employment and take a refund of contributions from the defined benefit portion of his or her plan. Under the revised language, a member could change employment from one VRS employer to another without incurring a forfeiture. Likewise, the *Code* would not require a forfeiture if a member has deferred retirement and not taken a refund.

This technical correction would not affect the DB component of the Hybrid Plan.

This legislation is identical to SB 51.

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