

Virginia Retirement System 2019 Fiscal Impact Statement

1. Bill Number: SB 1023-ES1

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

2. Patron: Cosgrove, Stuart, and Suetterlein

3. Committee: Finance

4. Title: Virginia Retirement System; retired law-enforcement officers employed as school security officers

5. Summary: Allows a retired local law-enforcement officer to continue to receive his service retirement allowance during a subsequent period of full-time employment by a local school division as a school security officer following a break in service. The retiree will not receive additional service credit, nor will he or she be eligible for any cash match payments that are available to active employees.

The substitute bill incorporates SB 1203 (Stuart) and SB 1582 (Suetterlein), amends the bill to apply to Title 51.1, and provides for employer contributions to VRS.

6. Budget Amendment Necessary: Yes. Item 488. VRS estimates implementation costs for the amended bill at \$282,627 in FY2019, with minimal ongoing costs in FY2020 and beyond.

The \$64,872 of the increase in costs for the amended bill reflects having the legislation apply to the State Police Officers' Retirement System (SPORS) and the Virginia Law Officers' Retirement System (VaLORS), which is identical to the costs reflected for SB 1203 and SB 1582 prior to their incorporation into SB 1023-ES1. The additional \$21,840 reflects programming required under the new provisions of the amended bill for system changes related to processing employer contributions for retirees who are re-employed as school security officers (SSO).

Programming will be required for employers to be able to enroll these retirees and to ensure that their retirement benefits are not suspended and that service is not added to their records. This is similar to the current procedure for retirees in the teacher critical shortage program. There may also be impacts on VRS' modernization program, which, among other initiatives, will migrate from a mainframe-based system to a client server environment, but the cost and length of any delay cannot be calculated at this time. To mitigate impacts to the modernization program's implementation schedule (migration from mainframe to client-server for the disbursement of the \$4.8 billion annual retiree payroll), a manual process for collecting employer contributions may need to be deployed until an automated solution can be fully developed, tested, and put into production.

7. **Fiscal Impact Estimates:** See fiscal implications in section 8 below for a detailed breakdown of estimated costs.
8. **Fiscal Implications:** Outside benefits counsel has confirmed that Internal Revenue Service (IRS) guidance allows specifically for a bona fide break in service with no prearrangement for re-employment, and the IRS makes the determination of whether or not there is a break in service using a facts and circumstances test. The IRS has not established a safe harbor severance period. IRS regulations under Internal Revenue Code (IRC) § 410, as cited in Private Letter Ruling 201147038, suggest that a one-year period without performing service might be considered a safe harbor. VRS uses a one-year break in service for the teacher critical shortage program. In 2001, the Joint Legislative Audit and Review Commission (JLARC) adopted a resolution concurring with VRS regarding the minimum twelve month separation before a retiree could be rehired into a critical shortage position without loss of retirement benefits, consistent with the recommendation of the JLARC actuary.

Failure to meet the facts and circumstances test for a bona fide break in service could jeopardize VRS' plan qualification status, thereby affecting all members and retirees. Typically, individual retirees who return to work at more than 80% of a full time position or are found not to have legitimately retired by completing the bona fide break in service must un-retire, with their retirement benefit ceasing, and the retirees must repay any benefit payments received since the time they returned to work. This may also affect eligibility for the State Retiree Health Plan administered by DHRM.

Under the proposed legislation, eligible retirees who return to work full time as a SSO will be employed in the same position as an active member employed as a SSO, and may receive benefits, except for additional creditable service toward VRS retirement as contemplated in the bill. In the amended bill, employer contributions are required while the retiree works, although the retiree will not receive corresponding service credit. A one-year break in service would serve to mitigate the impact of changes to retirement patterns.

VRS employer contribution rates are established as a percentage of an employer's VRS-covered payroll. When a position is removed from VRS coverage by a return-to-work exception or otherwise, there is a decrease in the funding of retirement benefits. In particular, legacy unfunded liabilities will not be paid off as expected. New language in the substitute, which requires that an employer include compensation paid to a retiree hired into a SSO position in its VRS-covered payroll for purposes of calculating employer retirement contributions, helps to mitigate this impact.

The potential impact of the amended bill on the cost-sharing Teacher plan would depend on whether retirees fill existing SSO positions or new ones.

Allowing a VRS retiree to return to work and be actively employed while continuing to receive a retirement allowance would impact both retirement and other post-employment benefits (OPEB) plans.

Under the amended proposed legislation, a member who has retired from a sworn law-enforcement officer position under Title 51.1 (SPORS, VaLORS, or local law-enforcement officers) and who, following a break in service, is hired by a local school division as a SSO may work full-time as a SSO and continue to receive a retirement benefit (i.e., an in-service distribution). The bill also provides that the retiree will not be eligible to receive any cash match contributions pursuant to Chapter 6.1 (§ 51.1-607 *et seq.*) for which active employees are eligible. Anyone who retired from a similar hazardous duty position due to disability would lose the disability retirement benefit upon return to work in a SSO position. Likewise, Line of Duty Act (LODA) benefits would cease for a LODA beneficiary who returns to work as a SSO. The retiree would not receive any future benefit accruals while working and would, therefore, not be required to make member contributions to the plan. Retirees who return to work under this provision would be considered retired for retirement, group life, health insurance credit, VSDP and/or VLDP benefits, if applicable. The member would be eligible to receive cost-of-living increases on the service retirement benefit while receiving the in-service distribution.

SSOs are currently covered under the Teacher retirement plan. A 2017 survey by the Department of Criminal Justice Services indicated that 432 schools statewide reported having either full- or part-time SSOs, with approximately 931 SSO positions according to the survey data. Additional grant funding was added to the 2019 budget for the current fiscal year, and it covers 30 school resource officer (SRO) positions and three SSO positions. The additional funding was made available for a start date of October 1, 2018. See section 11 of this impact statement for more information on the differences between SSOs and SROs.

Return-to-work provisions have the potential to have financial impacts on VRS retirement plans due to the following implications:

- **Can incentivize members to retire earlier than originally expected.** Since members would be able to receive a retirement benefit and continue to receive compensation for working in a VRS covered position, provisions of the bill could change retirement patterns. To illustrate, if members retire earlier than anticipated, the plan pays benefits earlier than expected and for a longer period of time. In addition, the plan has less time in which to earn investment income on member and employer contributions which is necessary to fund benefits. Requiring longer breaks in service, such as a year or more, would help to avoid prearrangements of subsequent re-employment (precluded by the IRC) and mitigate altering retirement patterns of current members.
- **Can impact allocation of cost-sharing if replacing current covered positions with retirees.** Employers filling positions with retirees under the provisions of the bill could impact cost-sharing allocations if the payroll of these members is exempt from inclusion in valuation pay. As an example, payroll of a school division that hires

retirees as SSOs will be smaller than anticipated if these positions that were formerly filled by active employees will now be filled by retirees, for whom no employer contributions are being made. This impact can be avoided by requiring that the payroll of retired members be included in the plan's covered payroll for VRS reporting, as is the case in the amended bill. While the member and employer would pay no normal cost since the member will not accrue additional benefit service, the covered payroll could still be used to amortize the legacy unfunded liability payment. This would protect against artificially increasing the amortization rate for other employers in the Teacher plan who may not fill VRS covered positions with retired members.

The implications of incentivized early retirement would impact individual political subdivision plans, SPORS, or VaLORS under the provisions of the amended bill, and the amount of impact would vary based on utilization of the provision within each of the plans. The additional costs of earlier than expected retirements would be borne by the local employers of the retiring members through additional pension and health insurance credit payments paid over longer periods of time, or in the case of a member in SPORS or VaLORS, the cost would be shared by the pool of employers in those plans.

While the costs for individual political subdivision plans are difficult to model due to each plan being separately rated, below we have shown estimated costs associated with SPORS, VaLORS, and political subdivisions in aggregate assuming that the provisions of the bill would create an increased incentive to take an in-service distribution and return to work. Determining the anticipated demand is difficult not knowing the number of SSO positions (current or new) that will be filled by retired law-enforcement officers in addition to the three positions made available through grant funding. For illustrative purposes, we have modeled the impact of a 10% increase in assumed retirements for sworn law-enforcement officers due to the proposed changes in plan provisions. To the extent actual experience varies from that assumed, the costs will vary from the estimates provided herein.

Exhibit 1 below shows the current expected retirements for each of the plans described above for members currently eligible for retirement under the hazardous duty provisions. Based on the population as of the last actuarial valuation, we would normally expect approximately 1,045 retirements from this population during the year. Increasing expected retirements by 10% would provide for approximately 105 more retirements under this illustration.

Exhibit 1 – Expected Retirements Based on Current Assumptions

SPORS - Members Eligible for Retirement

Age	Years of Service 6-24	Years of Service 25+	Total Eligible for Retirement	Expected Retirements	Modeled Increase in Retirements
50-54	87	157	244	20	6
55-59	34	114	148	14	
60-64	13	56	69	10	
65+	1	15	16	16	
Total	135	342	477	60	

ValORS - Members Eligible for Retirement

Age	Years of Service 6-24	Years of Service 25+	Total Eligible for Retirement	Expected Retirements	Modeled Increase in Retirements
50-54	664	120	784	94	32
55-59	527	78	605	65	
60-64	255	44	299	73	
65+	57	31	88	88	
Total	1,503	273	1,776	320	

Political Subdivision Hazardous Duty - Members Eligible for Retirement

Age	Years of Service 6-24	Years of Service 25+	Total Eligible for Retirement	Expected Retirements	Modeled Increase in Retirements
50-54	1,691	637	2,328	218	67
55-59	928	354	1,282	140	
60-64	372	178	550	155	
65+	86	66	152	152	
Total	3,077	1,235	4,312	665	

The proposed changes would have an impact on both the plan normal cost rate as well as an immediate impact on the accrued liability. Exhibit 2 below shows that the estimated total increase in unfunded liability across all retirement plans in aggregate would be approximately \$34.3 million while the increase in unfunded liability for the OPEBs would be approximately \$470,000 if the provisions of the amended bill were enacted, assuming a 10% increase in retirements. Actual experience may vary from that which has been modeled.

**Exhibit 2 – Increase in Unfunded Liabilities
Impact on Unfunded Liabilities of Retirement Plans**

Plan	Unfunded Liability 6/30/2018 Valuation	Unfunded Liability with Proposed Legislation	Increase in Unfunded Liability
SPORS	\$281,915,000	\$289,295,000	\$7,380,000
VaLORS	\$643,628,000	\$651,548,000	\$7,920,000
Political Subdivisions (In Aggregate)	\$2,409,178,000	\$2,428,206,000	\$19,028,000
Total	\$3,334,721,000	\$3,369,049,000	\$34,328,000

Impact on Unfunded Liabilities of OPEB Plans

Plan	Unfunded Liability 6/30/2018 Valuation	Unfunded Liability with Proposed Legislation	Increase in Unfunded Liability
HIC - State	\$899,365,000	\$899,934,000	\$569,000
HIC - Political Subdivisions (In Aggregate)	\$17,782,000	\$17,863,000	\$81,000
VSDP	(\$195,174,000)	(\$195,291,000)	(\$117,000)
Group Life	\$1,592,498,000	\$1,592,435,000	(\$63,000)
Total	\$2,314,471,000	\$2,314,941,000	\$470,000

The increase in liability is due to both anticipated retirements from current members already eligible to retire plus anticipated future retirements occurring earlier than expected.

Exhibit 3 below shows the combined cost impacts to both retirement and OPEB plans assuming the bill is enacted effective July 1, 2019. The increase in costs reflects the increase in normal cost rates as well as an additional rate to pay down the increase in the unfunded liabilities associated with this bill over the next 20 years. These costs are associated with encouraging early retirement and do not include any potential impacts to the Teacher plan discussed above.

Exhibit 3 – Expected Increase in Annual Funding

	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
State - General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SPORS - General Fund	769,000	769,000	769,000	769,000	769,000	769,000
VaLORS - General Fund	624,000	624,000	624,000	624,000	624,000	624,000
JRS - General Fund	-	-	-	-	-	-
Teacher - General Fund	-	-	-	-	-	-
TOTAL General Fund	\$ 1,393,000					
State - Non-General Funds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SPORS - Non-General Funds	124,000	124,000	124,000	124,000	124,000	124,000
VaLORS - Non-General Funds	56,000	56,000	56,000	56,000	56,000	56,000
TOTAL - Non-General Funds	\$ 180,000					
Teacher - Local Funds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Political Subdivisions - Local Funds	\$ 2,276,000	\$ 2,276,000	\$ 2,276,000	\$ 2,276,000	\$ 2,276,000	\$ 2,276,000
TOTAL Local Funds	\$ 2,276,000					
Grand Totals	\$ 3,849,000					

Estimated projections based on employee data and valuation results as of June 30, 2018 and assume a level population throughout projection period.

Payroll projections include a 2% increase for State, SPORS, and VaLORS effective July 1, 2019 as well as additional 2% for members with three or more years of service. Payroll projections for political subdivisions include a 2.5% increase applicable July 1, 2019. Payroll beyond 2020 is assumed to remain level throughout projection period.

9. Specific Agency or Political Subdivisions Affected: VRS, political subdivisions, any public school division that employs retired law enforcement officers as SSOs, and agencies employing SPORS and VaLORS members.

10. Technical Amendment Necessary: VRS is requesting a delayed effective date of July 1, 2020 (see item 11, below, for more detail).

11. Other Comments:

Delayed Effective Date

VRS is requesting that the effective date of this legislation be delayed until July 1, 2020, as the agency is in the final stages of a multi-year effort to modernize its business processes and implement enhanced technology that will result in new functionality and improved services for its members, employers, and retirees. A delayed effective date of July 1, 2020 will allow for necessary system adaptations without as much of an impact on the modernization effort. A delayed effective date will also allow for communications and outreach to affected employees and employers.

Background

Currently, a VRS retiree cannot collect a VRS retirement benefit while simultaneously working full-time in a VRS-covered position absent specific statutory authority that is in compliance with applicable Internal Revenue Code provisions. There are limited exceptions

to this rule under the *Code of Virginia*, such as retirees working in statutorily-defined critical shortage teaching positions. Most often, however, an individual working in a full-time position for a VRS-participating employer cannot simultaneously collect a VRS retirement benefit. In the case of a VRS retiree returning to work full-time in a VRS-covered position, the retiree must “unretire” and resume active VRS participation. When the individual chooses to subsequently retire again, VRS will recalculate the new retirement benefit to include the additional service credit earned.

The bill as amended would permit certain retired law enforcement officers (SPORS, VaLORS, and local law-enforcement officers) to return to otherwise VRS-covered employment as a SSO, but without impact to the retiree’s monthly benefit. The retiree would not accrue additional service credit and would not be eligible for any cash match payments that are available to similarly situated active employees under chapter 6.1 of title 51.1 (§ 51.1-607 *et seq.*). Please note that while the language of the bill refers to an election by the retiree, there is no actual election and the provisions of the bill would automatically apply to any eligible retiree who returns to work full-time as a SSO.

One-Year Break in Service

VRS recommends that the break in service be set at one year. As stated in the section relating to the critical shortage teaching positions, there are two primary reasons why it may be appropriate to specify a one-year break in service before a retiree would be eligible to return to work in a position contemplated by the bill. First, a one-year break in service would mitigate any possibility of an unlawful prearrangement to return to work. Likewise, the one-year break in service reduces the likelihood that the bill would create any major shift in retirement patterns.

Current Return-to-Work Options

Retirees may currently return to work part-time without losing VRS retirement benefits following a bona fide break in service with no prearrangement. In most cases a VRS retiree may return to work on a part-time basis with a VRS-participating employer and continue receiving retirement benefits. When working in a “non-covered” (i.e., part-time, temporary, or provisional) position, a VRS retiree is not in violation of § 51.1-155(B) and may continue to work while also collecting his or her retirement benefit. To be considered working in a non-covered position on the basis of part-time employment, a retiree must work 80% or less of the hours required of the comparable full-time position. In the case of someone working under a 9-, 10-, or 11-month contract with a school division (e.g., a SSO), this 80% threshold would be based on the 9-, 10-, or 11-month full-time equivalent position. Alternatively, if a county, rather than a school division, hired personnel to provide school security services as a SRO, the 80% threshold would be based on a normal full-time work schedule (i.e., 2,080 hours per year). Under this approach (e.g., a SRO hired by a county or city), a VRS retiree would be available to work more hours per year in a part-time position compared to a SSO with a 9-, 10-, or 11-month contract hired by a school division.

The following table demonstrates the number of hours that a VRS retiree may currently work on a part-time basis depending on the number of months of the full-time equivalent position:

Contract duration for full-time equivalent position:	Part-time work limit (hours per year) based on the 80% threshold:	Approximate part-time work limit (hours per week)*
12 months	1,664	32
11 months	1,525	29
10 months	1,387	27
9 months	1,248	24

*Part-time work in excess of 29 hours may implicate requirements of the Affordable Care Act (ACA).

Health Insurance Impact

Health care issues related to retirees returning to work should also be considered. Each school division's health insurance provisions likely differ, but typically if a retiree is eligible for active employee coverage, he or she would move to the active plan, if eligible. In most cases, when a retiree comes back to active employment that provides eligibility for health insurance coverage, the retiree prefers to have the employer contribution. In general, Medicare would consider that the active coverage should be primary when coverage due to current active employment is available. While the state's policy allows for a retiree to return to the retiree health insurance program immediately upon loss of active coverage, because each school division may offer different health care insurance coverage, it is difficult to generalize about the health care impact of a retiree returning to work for a non-state employer.

The employer shared responsibility provisions of the Affordable Care Act (ACA) require that applicable large employers (generally, 50+ employees) offer affordable, minimum essential coverage to full-time (30 or more hours/week) employees and their dependents. The employee does not have to take the coverage, but in order to comply with ACA requirements, the employer would need to confirm through ACA reporting that the offer was made. A retiree health plan may or may not include provisions allowing for the retiree to leave the retiree health care program in order to receive coverage in another plan and then return to the former retiree health plan at a later date.

Difference Between School Resource Officers and School Security Officers

SSOs perform a different role from SROs and generally receive different benefits.

Important to understanding the bill is the precise role of a SSO. The *Code of Virginia* currently authorizes two primary positions that can provide varying levels of security services in a public school: a SRO, employed by a political subdivision, and a SSO, employed by a school division. The bill applies only to SSOs. Section 9.1-101 sets forth the statutory differences between these two positions:

	School Resource Officer	School Security Officer
Employer	Local law enforcement agency	Local school board
Purpose	Provide law enforcement and security services in Virginia public elementary and secondary schools	Maintain order and discipline, prevent crime; investigate violations of school board policies; detain students violating the law or school board policies on school property or at school-sponsored events; ensure the safety, security, and welfare of all students, faculty, staff and visitors

SRO and SSO eligibility for enhanced hazardous duty benefits as active employees also varies. A SRO, if actively employed by a sheriff’s office, automatically receives enhanced hazardous duty coverage. A SRO actively employed by a local police department, however, is eligible for enhanced hazardous duty coverage only if the political subdivision has elected such coverage under § 51.1-138 (note: most political subdivisions have elected these benefits to some degree). A SSO is not currently eligible for enhanced hazardous duty coverage since it is a position employed by a local school board, which does not provide for hazardous duty benefits within the VRS Teacher Plan.

Whereas a SRO can carry a firearm by virtue of being a certified law enforcement officer, House Bill 1392 (2017) added specific requirements that govern whether a SSO may carry a firearm. These requirements became effective July 1, 2017, in § 22.1-280.2:1:

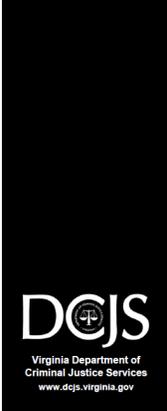
[A] school security officer may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board he was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such training from a local law-enforcement agency he received the training in the locality in which he is employed; (v) the local school board solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board grants him the authority to carry a firearm in the performance of his duties.

Additional information in the following chart, which was developed by the Virginia Department of Criminal Justice Services (DCJS), demonstrates the differences between a SRO and SSO.



Legislation

School Resource Officer	School Security Officer
1. Law enforcement agency employee	1. School employee
2. Complying with federal, state and local statutes	2. Complying with/guided by local school policies and regulations
3. Under direction of law enforcement command	3. Under direction of local school principal or designee
4. Assigned to school and community activities	4. Primarily assigned to school campus activities
5. Responsible for enforcing state law	5. Responsible for enforcing school policy
6. Responsible for custody and arrest in conformance with law	6. Responsible for detaining individuals
7. Search must be in accordance with State and Federal law	7. Can search students and others based upon reasonable suspicion
8. Laws and custody requirement procedures apply	8. May detain and question students
9. Act under the standards of law	9. Act in absence of parents (<i>in loco parentis</i>)
10. Use of force permissible as guided by department policy	10. Use of force should be limited and only used in accordance with local school policy



Teacher Critical Shortage Program

There is currently a limited exception in § 51.1-155(B)(3) that allows a VRS retiree to return to work full-time in a VRS-covered, critical shortage teaching position without impact to his or her retirement allowance. These provisions are set to expire July 1, 2020 unless extended by SB 1227, and were intended to address the difficulty that some schools face in recruiting qualified teachers. In order to take advantage of this provision, however, each of the following requirements must be met:

- The VRS retiree must have been receiving a retirement allowance for a certain period of time preceding his employment as provided by law;
 - Note: VRS requires one year for the “certain period of time.”
- The VRS retiree cannot be receiving a retirement benefit pursuant to an early retirement incentive program from any local school division within the Commonwealth; and
- At the time the VRS retiree is employed, the teaching position to which he or she is assigned must be among those identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant to subdivision 9 of § 22.1-79.

A key reason that the critical shortage teaching exception has not resulted in major shifts in retirement patterns is because of the requirement that an individual must have been receiving a retirement allowance for at least one full year before becoming eligible to return in the critical shortage capacity and without impact to the retirement allowance. In addition, the

one-year requirement reduces the risk for abuse of the rules that might otherwise result in an unlawful prearrangement, which is contrary to provisions of the Internal Revenue Code (IRC), between an employer and retiring employee to establish post-retirement employment. An unlawful prearrangement to return to work is a challenge with retiring members in pension plans and one that can adversely impact both the member and VRS' qualified plan status under the IRC.

Based on information reported by school divisions to VRS, below are statistics on the number of full-time critical shortage teaching positions filled with a VRS retiree over the last decade.

DOE Region	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19*	Total CS Positions	% of total CS positions
Region 1	9	12	9	6	5	8	3	1		4	3	60	12.96%
Region 2	13	7	8	11	8	6	5	6	15	14	9	102	22.03%
Region 3	7	5	3	3	2	2	2	2	1	7	1	35	7.56%
Region 4	29	17	14	13	17	16	3	5	18	18	11	161	34.77%
Region 5	2	2	2	2	2	2	1	1	1	3	3	21	4.54%
Region 6	5	4	2	2	2	3	5	1	3	6	4	37	7.99%
Region 7	7	5	3	3	3					2		23	4.97%
Region 8	2	1	3	4	2	1	1	1	1	4	4	24	5.18%
	74	53	44	44	41	38	20	17	39	58	35	463	100.00%

* 2018-2019 data may be incomplete. Critical shortage information is not due to VRS until November 1st. This is the current number for the 2018-19 school year.

Region 1 - Charles City, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, New Kent, Powhatan, Prince George, Surry, Sussex, Colonial Heights, Hopewell, Petersburg, Richmond

Region 2 - Accomack, Isle of Wight, James City (Williamsburg), Northampton, Southampton, York, Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, Williamsburg (James City County)

Region 3 - Caroline, Essex, Gloucester, King George, King William, King and Queen, Lancaster, Mathews, Middlesex, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland, Colonial Beach, Fredericksburg, West Point

Region 4 - Arlington, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Shenandoah, Warren, Alexandria, Falls Church, Manassas, Manassas Park, Winchester

Region 5 - Albemarle, Amherst, Augusta, Bath, Bedford, Campbell, Fluvanna, Greene, Highland, Louisa, Nelson, Rockbridge, Rockingham, Buena Vista, Charlottesville, Harrisonburg, Lexington, Lynchburg, Staunton, Waynesboro

Region 6 - Alleghany, Botetourt, Craig, Floyd, Franklin, Henry, Montgomery, Patrick, Pittsylvania, Roanoke, Covington, Danville, Martinsville, Roanoke, Salem

Region 7 - Bland, Buchanan, Carroll, Dickenson, Giles, Grayson, Lee, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe, Bristol, Galax, Norton, Radford

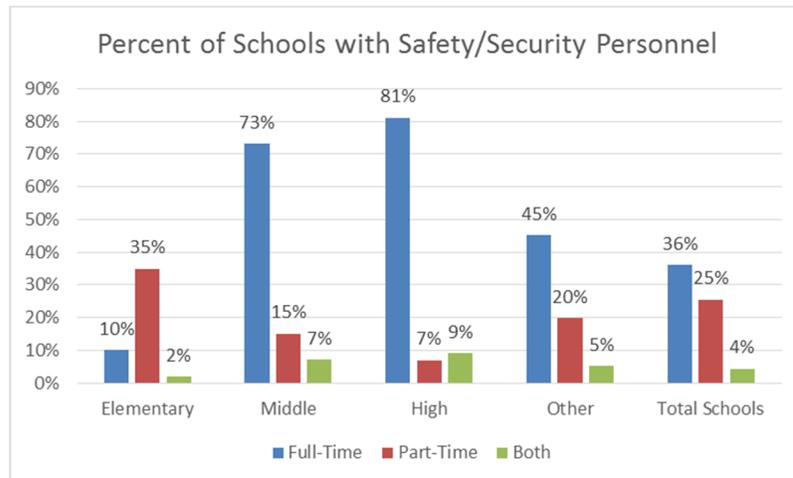
Region 8 - Amelia, Appomattox, Brunswick, Buckingham, Charlotte, Cumberland, Greensville, Halifax, Lunenburg, Mecklenburg, Nottoway, Prince Edward

Security Personnel Working in Public Schools

The following section discusses the potential population of retirees who could take advantage of the return-to-work exception for SSOs in the bill.

The Department of Criminal Justice Services (DCJS) maintains data relating to the safety of public schools in the Commonwealth. Included in this data is the number of security personnel working in public schools, which DCJS reports annually based on school divisions' survey responses. [The 2017 Virginia School Safety Audit Survey Results](#) included

responses from 1,956 public schools. Of these, 1,104 were elementary schools, 338 were middle schools, 317 were high schools, and 197 were others. Following are the survey results relating to the employment of security personnel on a full-time only basis, part-time only basis, or both:



Source: 2017 Virginia School Safety Audit Survey Results Report

According to the DCJS survey, approximately two-thirds of schools (1,279, 65%) used safety/security personnel (e.g., SROs, SSOs, or other types of officers). Of these, 701 schools used security personnel only on a full-time basis, 494 employed security personnel only on a part-time basis, and 81 employed such personnel on both full- and part-time bases.

When looking specifically at the schools' use of only full-time security personnel, DCJS reported that a greater number of schools used the SRO approach over the SSO approach:

- 584 schools had full-time SROs;
- 305 schools had full-time SSOs; and
- 62 schools had other types of full-time personnel.

With respect to part-time security personnel, the DCJS data suggest that a greater number of schools also used the SRO approach:

- 463 schools had part-time SROs;
- 65 schools had part-time SSOs; and
- 30 schools had other types of part-time personnel.

Finally, the survey results indicate that, of the 672 SSOs reported by the schools that responded, approximately 22% had prior law enforcement experience.

Additional Information Related to Disability Retirement and LODA Benefits Eligibility

It is possible for a retired officer's level of compensation to affect his eligibility for benefits under LODA if the current earned income equals or exceeds the salary of the position at the time of disability, indexed for inflation. (*See* Va. Code § 9.1-401(C)(4)). The majority of retired officers receiving LODA benefits are also drawing a disability retirement benefit that would make them ineligible for work as a SSO or result in the loss of disability retirement benefits as well as LODA benefits.

A sworn officer who is receiving a disability retirement benefit cannot return to a sworn officer position and continue to receive his disability retirement benefit. The retiree may also lose LODA eligibility as noted above if he or she returns to full duty in any position listed in the definition of "deceased person" in Va. Code § 9.1-401(C)(3).

VRS has communicated clearly and consistently through its publications and other outlets that a disability retiree cannot return to a position that requires the same or similar duties as those performed prior to disability retirement. Similarly, any retiree receiving LODA benefits must be careful to weigh the implications, if any, of the contemplated work on the retiree's continued eligibility for those LODA benefits.

In light of the recent focus on strengthening school safety, VRS developed a guide for employers that use school safety officers and school resource officers. The guide is on the VRS employers' web site at the following link:

<https://employers.varetire.org/pdf/publications/Hiring-Reporting-SROs-SSOs.pdf>

Similar Bills

SB 1023, as amended, incorporates SB 1203 (Stuart) and SB 1582 (Suetterlein). The amended bill is similar to HB 1765, which refers to retirees under Title 51.1 but does not provide for employer contributions to VRS. It is also similar to HB 1631 and HB 2024, which refer to retirees under Chapter 1 of Title 51.1 rather than all of Title 51.1 as described above.

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