

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia, relating to school bus drivers; critical shortages.

[S 324]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-23. Duties in general.

The Superintendent of Public Instruction shall:

1. Serve as secretary of the Board of Education;

2. Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;

3. Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;

4. (Expires July 1, 2025) At least annually, survey all local school divisions to identify critical shortages of (i) teachers and administrative personnel by geographic area, by school division, or by subject matter; and (ii) *school bus drivers by geographic area and local school division* and report such critical shortages to each local school division and to the Virginia Retirement System;

5. Develop and provide to local school divisions a model exit questionnaire for teachers;

6. Along with the State Health Commissioner, work to combat childhood obesity and other chronic health conditions that affect school-age children;

7. Designate an employee of the Department of Education to serve as its liaison to the State Council of Higher Education for Virginia and the State Board for Community Colleges; and

8. Perform such other duties as the Board of Education may prescribe.

§ 22.1-70.3. (Expires July 1, 2025) 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 (i) teachers and administrative personnel by subject matter and (ii) *school bus drivers* 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 18 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 or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances. Except in the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the Board of Education pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees;

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SB324ER

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

59 8. Obtain public comment through a public hearing not less than 10 days after reasonable notice to
60 the public in a newspaper of general circulation in the school division prior to providing (i) for the
61 consolidation of schools; (ii) the transfer from the public school system of the administration of all
62 instructional services for any public school classroom or all noninstructional services in the school
63 division pursuant to a contract with any private entity or organization; or (iii) in school divisions having
64 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting
65 any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily
66 membership in the affected school. Such public hearing may be held at the same time and place as the
67 meeting of the school board at which the proposed action is taken if the public hearing is held before
68 the action is taken. If a public hearing has been held prior to the effective date of this provision on a
69 proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the
70 effective date of this provision, an additional public hearing shall not be required;

71 9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of
72 (i) teachers and administrative personnel by subject matter; *and (ii) school bus drivers* and report such
73 critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System;
74 however, the school board may request the division superintendent to conduct such survey and submit
75 such report to the school board, the Superintendent, and the Virginia Retirement System; and

76 10. Ensure that the public schools within the school division are registered with the Department of
77 State Police to receive from the State Police electronic notice of the registration or reregistration of any
78 sex offender within that school division pursuant to § 9.1-914.

79 **§ 51.1-155. Service retirement allowance.**

80 A. Retirement allowance. — A member shall receive an annual retirement allowance, payable for
81 life, as follows:

82 1. Normal retirement. — The allowance shall equal 1.70 percent of his average final compensation
83 multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i)
84 is a person who becomes a member on or after July 1, 2010, or (ii) does not have at least 60 months of
85 creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his
86 average final compensation multiplied by the amount of his creditable service performed or purchased
87 on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the
88 amount of all other creditable service.

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

98 3. Early retirement; applicable to employees of certain political subdivisions, any person who
99 becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of
100 creditable service as of January 1, 2013. — The allowance shall be determined in the same manner as
101 for normal retirement with creditable service and average final compensation being determined as of the
102 date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of
103 his age at retirement plus his creditable service at retirement is less than 90, the amount of the
104 retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual
105 retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the
106 sum of his then attained age plus his then creditable service would have been equal to 90 or more had
107 he remained in service until such date. If the member has less than 30 years of creditable service, the
108 retirement allowance shall be reduced for the period by which the actual retirement date precedes the
109 earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total
110 of at least 30 years of creditable service and his then creditable service plus his then attained age would
111 have been equal to 90 or more.

112 The provisions of this subdivision shall apply to the employees of any political subdivision that
113 participates in the retirement system and any other employees as provided by law. The participating
114 political subdivision may, however, elect to provide its employees with the early retirement allowance
115 set forth in subdivision 2. No such election shall be made for a person who becomes a member on or
116 after July 1, 2010, or a member who does not have at least 60 months of creditable service as of
117 January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted

118 resolution.

119 Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to
 120 the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of
 121 § 51.1-153, any person who meets the definition of "emergency medical services personnel" in
 122 § 32.1-111.1 or is employed as a firefighter or law-enforcement officer as those terms are defined in
 123 § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and
 124 (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such
 125 resolution shall be irrevocable.

126 4. Additional allowance. — In addition to the allowance payable under subdivisions 1, 2, and 3, a
 127 member shall receive an additional allowance which shall be the actuarial equivalent, for his attained
 128 age at the time of retirement, of the excess of his accumulated contributions transferred from the
 129 abolished system to the retirement system, including interest credited at the rate of two percent
 130 compounded annually since the transfer to the date of retirement, over the annual amounts equal to four
 131 percent of his annual creditable compensation at the date of abolishment for a period equal to his period
 132 of membership in the abolished system.

133 5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the
 134 greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated
 135 service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's
 136 accumulated contributions, including accrued interest.

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

138 1. Except as provided in subdivisions 2 and 3, if a beneficiary of a service retirement allowance
 139 under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3
 140 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement
 141 purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1
 142 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed.
 143 Any member who retires and later returns to covered employment shall not be entitled to select a
 144 different retirement option for a subsequent retirement.

145 2. Active members of the General Assembly who are eligible to receive a retirement allowance under
 146 this title, excluding their service as a member of the General Assembly, shall be eligible to receive a
 147 retirement allowance based on their creditable service and average final compensation for service other
 148 than as a member of the General Assembly. Such members of the General Assembly shall continue to
 149 be reported as any other members of the retirement system. Upon ceasing to serve in the General
 150 Assembly, members of the General Assembly receiving a retirement allowance based on their creditable
 151 service and average final compensation for service other than as a member of the General Assembly
 152 shall have their retirement allowance recomputed prospectively to include their service as a member of
 153 the General Assembly. Active members of the General Assembly shall be prohibited from receiving a
 154 service retirement allowance under this title based solely on their service as a member of the General
 155 Assembly.

156 3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter,
 157 who is hired ~~as~~ by a local school board *as an* instructional or administrative employee required to be
 158 licensed by the Board of Education *or as a school bus driver*, may elect to continue to receive the
 159 retirement allowance during such employment, under the following conditions:

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

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

164 (c) At the time the person is employed, the position to which he is assigned is among those
 165 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the
 166 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant
 167 to subdivision 9 of § 22.1-79.

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