

## Virginia Retirement System 2014 Fiscal Impact Statement

**1. Bill Number:** HB 10

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

**2. Patron:** Patron Prior to Substitute – Jones, S. Chris

**3. Committee:** Senate Finance

**4. Title:** Judges; retirement allowance and service after retirement.

**5. Summary:** Provides that the annual retirement allowance of any person who has served as a judge, but retires under a different VRS retirement plan, shall not exceed 78 percent of the person's average final compensation, unless such person after ceasing to be a judge performs five or more years of creditable service under such other retirement plan. However, in no case shall such person's annual retirement allowance exceed 100 percent of his average final compensation. The bill clarifies that only those persons who retired as a judge or justice may serve as a senior jurist on the Supreme Court or the Court of Appeals. The bill also contains technical amendments. The Senate substitute allows district court judges to be recalled for the purpose of hearing cases for a period of greater than 90 days.

**6. Budget Amendment Necessary:** Yes. If the retroactive application of this legislation results in litigation, VRS will need spending authority to cover the costs of defending a lawsuit if outside counsel is retained.

**7. Fiscal Impact Estimates:** Predicting future movement of plan members between VRS sponsored plans historically has not been measured, therefore no assumptions currently exist. This makes it extremely difficult to predict future cost savings for HB 10. However, historical data does exist for prior members of JRS who retired in another VRS-administered plan.

Under the proposed bill, any former member of JRS who subsequently goes to work for another VRS employer and retires must have at least five years of creditable service with the new employer or their benefit will be limited to 78% of their average final compensation. The 78% limit coincides with the provisions of the JRS, which provides weighted service to plan members during their tenure as a judge, but limits the retirement benefit to 78% of average final compensation. We have identified eight retirees who went on to work for other VRS employers, worked for less than five years, and retired with a benefit that exceeded 78% of their average final compensation. These eight retirees, whose benefits would have been capped under HB10, are expected to generate \$4.0 million in additional unfunded plan liability. Exhibit 1 below details the expected additional cost associated with these eight retirees.

Exhibit 1

**Former JRS Plan Members who Retired from other VRS Administered Plan  
Benefit Exceeded 78% of Average Final Compensation**

Age Group	Count	Benefits Received to Date in excess of 78% of AFC	Estimated Value of Future Benefits in Excess of 78% of AFC	Total Expected Benefits received in excess of 78% of AFC
Total	8	\$ 1,081,945	\$ 2,962,672	\$ 4,044,617

In addition to the eight retired members, we have also identified eight current active members who have JRS weighted service, but are currently covered under a retirement plan other than the JRS.

- 8. Fiscal Implications:** See Fiscal Impact Estimates above.
- 9. Specific Agency or Political Subdivisions Affected:** VRS, the Judicial Retirement System and any agencies employing former judges.
- 10. Technical Amendment Necessary:** No.
- 11. Other Comments:** This bill would provide that the restriction in § 51.1-303(C) limiting a justice's or judge's retirement benefit to 78% of average final compensation would still apply if the judge were subsequently employed in another VRS-administered retirement plan and retired before performing at least five years of creditable service under such other retirement plan. Once a former justice or judge has been employed in another VRS-administered retirement plan for at least five years the 78% average final compensation cap no longer applies to the retirement benefit. The bill provides, however, that under no circumstances shall the former justice's or judge's annual retirement benefit allowance exceed 100% of his or her average final compensation.

The bill also amends §17.1-106 to provide that only justices and judges who have retired under the JRS may be recalled temporarily. This change would make a former justice or judge who retired under a VRS plan other than the JRS ineligible for temporary recall. In addition, § 17.1-302 is amended to reflect that only justices who are eligible for retirement under the JRS may be designated a senior justice. Likewise, § 17.1-401 is amended to provide that only judges who retire under the JRS may be designated as a senior judge.

The Senate substitute (HB10S1) modifies Title 16.1 to allow district court judges who are retired under JRS to be recalled for the purpose of hearing cases for a period of greater than 90 days. The Code currently restricts recalled service for district judges to a period of 90 days. The substitute language allows a district judge to serve on a recalled basis as long as necessary to fully adjudicate the case or cases for which he or she is recalled.

Two additional enactment clauses were agreed to by the Senate on February 28, 2014 and approved by the House on March 4.

A new enactment clause 2 provides that the provisions of this act amending subsection C of § 51.1-303 shall apply retroactively to any person who has retired on or after July 1, 2013 from a position covered by a retirement plan administered by the Virginia Retirement System.

A new enactment clause 3 provides that if any portion of the act is held unconstitutional by a court of competent jurisdiction, the remaining portions of the act shall remain in effect.

The House had previously added an emergency enactment clause to the bill, which is now renumbered as enactment clause 4.

**Date:** 03.05.14

**Document:** HB10S1.DOC