

Virginia Retirement System 2019 Fiscal Impact Statement

1. **Bill Number:** HB 2171

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

2. **Patron:** Brewer

3. **Committee:** Appropriations

4. **Title:** Virginia Retirement System; erroneous benefits estimate; adjustment for certain members

5. **Summary:** Provides that certain members of the Virginia Retirement System who retire early under the provisions of §51.1-155.2, if such members relied on an erroneously high estimate of benefits in their decision to retire, shall receive payments at the estimated amount. The bill provides that the benefits adjustment would apply to any member who received an erroneous estimate on or after January 1, 2017; however, the adjustment would apply only to payments made on and after July 1, 2019.

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

7. **Fiscal Impact Estimates:** A more detailed breakdown of estimated costs are shown in Item 8 below.

8. **Fiscal Implications:** The fiscal impact of this bill is indeterminate. VRS is not aware of any retirement benefits that would need to be recalculated under the specific provisions of and dates provided for this legislation.

9. **Specific Agency or Political Subdivisions Affected:** VRS, VRS employers, and certain VRS retirees.

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

11. **Other Comments:** This bill would require that VRS adjust upward the benefit of a member who 1) retires under the provisions of § 51.1-155.2, 2) received an erroneous benefit estimate on or after January 1, 2017, that indicated that retirement benefits would be higher than the correct benefits, and 3) relied on that estimate. The adjustment would be required for payments received on and after July 1, 2019.

Section 51.1-155.2 provides exceptions from general early retirement provisions for certain local government officers. It applies to county administrators, urban county executives, county executives, county managers, county administrators, city or town managers, or city or town attorneys appointed pursuant to specific *Code of Virginia* sections. If a VRS member in

one of these categories is involuntarily separated and has 20 or more years of creditable service at the date of separation, the member may retire at age 50 “unreduced,” or without the reduction in retirement allowance required in § 51.1-155(A)(2) and (3). If the person is a Plan 2 or Hybrid member, the member may retire at age 60 unreduced. This exception does not grant the member additional service to reach the normal unreduced retirement benefit.

Although HB 2171 could result in future impacts if VRS develops an erroneous estimate for a member retiring under § 51.1-155.2, VRS is unaware of any existing retirees who received an erroneous estimate on or after January 1, 2017, for whom the provisions of this bill would require a benefit recalculation. An erroneous estimate calculates a benefit incorrectly based on the assumptions used. An estimate can be correct, but be based on assumptions that do not reflect the actual circumstances at the time of the individual’s retirement, so that the actual benefit is higher or lower than what is reflected in the estimate.

Retirement benefit estimates can be created at any time in myVRS or with a VRS retirement counselor, based on changing variables such as length of service, retirement date and age at retirement, and average final compensation (AFC). All estimates rely in part on the information entered or provided by the member or an authorized representative of the member, such as a human resources employee. VRS member handbooks suggest creating estimates based on different options to determine what best suits the needs of the member. When a member subsequently submits his or her application for retirement, which is processed by VRS, a retirement certificate is issued showing the final retirement benefit based on the actual circumstances. The member may have created several benefit estimates, but only the estimate that matches the actual circumstances of the retirement will reflect the final retirement benefits. Upon receiving the certificate, the member may rescind his or her retirement application.

For example, if an active member requests a benefit estimate for an assumed retirement date of January 1, 2020, his or her estimate will be based on continued VRS-covered service through December 31, 2019. Additional assumptions will also be made with respect to the member’s creditable compensation and plan designation, among other potential factors. If the same member then chooses to retire effective December 1, 2019, rather than January 1, 2020, then the retirement allowance quoted in the benefit estimate will not match the member’s final retirement allowance since the member did not have the expected continued service through December 31, 2019, and the member’s AFC could have changed. This does not mean that the benefit estimate was erroneous, since the member did not earn the amount of service credit nor the AFC assumed for purposes of the benefit estimate.

VRS, as a qualified governmental plan under § 401(a) of the Internal Revenue Code, must comply with the provisions of Title 51.1 in order to maintain its plan qualification, which allows certain tax benefits to apply to the plan, including pre-tax contributions, deferred earnings, and certain tax exemptions. Providing benefits to a member to which he or she is not entitled poses a potential risk to VRS’ plan qualification. For instance, VRS cannot provide a retirement benefit based on time that the employee did not actually work, which is sometimes referred to as “air time.” Because retirement calculations are complex, VRS encourages its members to use the myVRS system to create their own estimates based on

different variables. VRS retirement counselors are available to all members to assist them with retirement estimates and to provide counseling on common retirement questions, such as health care in retirement and Social Security benefits. Our estimates also provide information regarding the assumptions used in the development of the estimate. For example, the years of service and the AFC, as well as the dates of such AFC are included.

Members who disagree with VRS benefits determinations have the option to pursue an appeal through certain provisions of the Virginia Administrative Process Act, up to and including judicial review of the determination by an appeal through the court system.

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