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SENATE BILL NO. 324

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 23, 2020)

(Patron Prior to Substitute—Senator Deeds)

A BILL 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.

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

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60 law;

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

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

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

81 **§ 51.1-155. Service retirement allowance.**

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

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

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

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

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

121 Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to

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

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

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

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

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

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

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

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

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

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

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