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 and to amend and reenact the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, and the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, and to amend Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 by adding a second enactment, relating to Virginia Retirement System; return to work.

[S 1479]

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*; (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2;* and ~~(ii)~~ *(iii)* 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, *(ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2,* and ~~(ii)~~ *(iii)* 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 law;

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

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter, *(ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2,* and ~~(ii)~~ *(iii)* school bus drivers and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; and

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school division pursuant to § 9.1-914.

§ 51.1-155. Service retirement allowance.

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

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

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

3. Early retirement; applicable to employees of certain political subdivisions, any person who becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of creditable service as of January 1, 2013. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of

his age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to 90 or more had he remained in service until such date. If the member has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 90 or more.

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

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

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

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

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2, 3, and 4, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

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

3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter, who is hired by a local *public* school board *(i)* as an instructional or administrative employee required to be licensed by the Board of Education, *(ii) in a specialized student support position as that term is described in subsection O of § 22.1-253.13:2,* or *(iii)* as a school bus driver, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

(a) The person ~~has been receiving such retirement allowance for at least 12 calendar months preceding his employment~~ *has a break in service of at least six calendar months between retirement and returning to work full time for a local public school board*;

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

(c) At the time the person is employed, the position to which he is assigned is 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 *public* school board, pursuant to subdivision 9 of § 22.1-79.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment, *nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145*.

4. Any person receiving a service retirement allowance under this title for service as a sworn law-enforcement officer and who is employed in a local *public* school division as a school security officer, as defined in § 9.1-101, may elect to continue to receive the retirement allowance during such employment under the following conditions: (i) the person has a break in service of at least ~~12~~ *six* calendar months between retirement for service as a sworn law-enforcement officer and employment as a school security officer; (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; (iii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv) the person did not participate in any incentive program established under the second or third enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.

At least once in each four-year period, in conjunction with the actuarial investigation made under subdivision A 4 of § 51.1-124.22, there shall be an actuarial investigation made of the experience under subdivisions B 3 and 4 of this section, and the retirement system shall submit a report to the General Assembly advising it of the results of such investigation.

2. That the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, are amended and reenacted as follows:

5. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

3. That the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, is amended and reenacted as follows:

3. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

4. That Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 are amended by adding a second enactment as follows:

2. That the provisions of this act shall expire on July 1, 2028.

5. That the provisions of the first enactment of this act shall expire on July 1, 2028.

6. That the Virginia Retirement System (VRS) shall analyze and review options available to local public school divisions for hiring retired instructional or administrative employees, specialized student support position employees, bus drivers, or school security officers with at least 25 years of service into temporary or other non-full-time positions during the six-month break in service period required by § 51.1-155 of the Code of Virginia, as amended by this act, between retirement and becoming eligible to return to work full-time without impact to their retirement benefits. VRS shall complete its review and submit a report to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1, 2023.