

Virginia Retirement System
2026 General Assembly Session
Fiscal Impact Statement

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ORIGINAL

Bill Number: HB 1488

Patron: Bulova

Bill Title: Virginia Retirement System; return to work for law-enforcement officers.

Bill Summary: Allows a retired sworn law-enforcement officer to return to work full time in any law-enforcement position and continue to receive his pension under the Virginia Retirement System if such person has a break in service of at least six calendar months before reemployment and meets certain other requirements, including having retired in good standing from his sworn law-enforcement officer position. The bill does not require that employer contributions be made. The bill has a delayed effective date of January 1, 2027.

Budget Amendment Necessary: Yes **Items Impacted:** 483

Explanation: VRS will need a NGF appropriation of approximately \$405,500 in FY 2026 to cover the cost of programming and testing, as well as updating employee and employer communications, with minimal ongoing costs for program management.

If the bill passes, allowing retired law-enforcement officers to return to work in any law-enforcement position, VRS anticipates the need for a part-time wage employee to assist with increased administration for the return-to work-program, at an ongoing cost of approximately \$36,000 per year.

VRS requests a delayed effective date of July 1, 2027. This would allow for adequate time to develop system programming and perform applicable testing. In addition, a delayed effective date provides the agency with some flexibility in assigning existing resources to the programming and implementation of the bill's provisions which could result in lower costs by reducing the need to hire additional contractors and other resources to meet a January 1, 2027 deadline. Further, VRS's costs are specific to the implementation of this legislation if enacted. It cannot be determined at this time whether the enactment of any other bill during this session that would require implementation by VRS would increase or decrease implementation costs.

This does not include the potential impact on future contribution rates in Item 469 or to the funded status of the state or local plans, which are discussed below.

Fiscal Summary:

Benefit(s) impacted: Retirement benefits. In addition to the return-to-work options available to all retired employees, this bill adds a new exemption in § 51.1-155-(B)(5) for retired law-enforcement officers to return to work in any law-enforcement position. Though more broadly applicable, the new exemption is generally consistent with the current school security officer return to work exemption, except that it does not require employers to include retirees' compensation in membership payroll subject to employer contributions under § 51.1-145 of the *Code of Virginia*. See [RD578- Return to Work for Law-Enforcement](#)

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[Officers Retired from VRS- Ch. 722 of the 2023 Acts of Assembly- November 1, 2023 report](#) for more information. The bill could also impact workers' compensation, Line of Duty Act (LODA), and VRS disability benefits.

Impact to unfunded liability: Return-to-work provisions could result in detrimental changes to retirement patterns because they may incentivize retirements earlier than plan assumptions. This could increase liabilities over time due to the additional costs of paying retirement benefits to retirees beginning earlier and for a longer period of time. However, because this bill does not require employers to include retirees' compensation in membership payroll subject to employer contributions under § 51.1-145 of the *Code of Virginia*, less will be paid into the VRS Trust Fund in employer contributions calculated to fund retirement benefits, leading to increased liabilities and a need to increase employer contributions for all employers, including those who do not hire retirees.

Impact to contribution rate(s): This bill does not require employers to include retirees' compensation in membership payroll subject to employer contributions under § 51.1-145 of the *Code of Virginia*. As more positions are filled by retirees, less is paid into the VRS Trust Fund in expected employer contributions calculated to fund retirement benefits. Over the long term, employer contribution rates will rise to account for fewer active employees and to cover the additional costs of paying retirement benefits to retirees beginning earlier and for a longer period of time. In the pooled plans, this could result in employers paying higher contributions regardless of whether they fill positions with retirees instead of active members.

Specific Agency or Political Subdivisions Affected: VRS and employers who hire retired law-enforcement officers in the specified civilian positions, as well as current employers of law-enforcement officers throughout the state.

VRS cost to implement: Approximately \$405,500 for FY 2026 primarily for programming and communications, with minimal ongoing costs for program management.

Employer cost to implement: Minimal employer costs are anticipated for implementation.

Other VRS and employer impacts: VRS will need to reach out to employers to communicate this limited exception applicable only to retired law-enforcement officers.

GF budget impacts: Will develop over time and will vary by plan. No immediate impacts expected.

NGF budget impacts: Approximately \$405,500 in FY 2026 for VRS implementation, with minimal ongoing costs.

Details regarding the specific costs can be found in the Fiscal Analysis section.

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General Fund Expenditure Impact:

<u>Agency</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>
<hr/>						
TOTAL						

Nongeneral Fund Expenditure Impact:*

<u>Agency</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>
VRS	\$405,500	\$36,000	\$36,000	\$36,000	\$36,000	\$36,000
TOTAL	\$405,500	\$36,000	\$36,000	\$36,000	\$36,000	\$36,000

Position Impact:

<u>Agency</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>
VRS	0.5	0.5	0.5	0.5	0.5	0.5
TOTAL	0.5	0.5	0.5	0.5	0.5	0.5

*Note: This table does not include increased costs for political subdivisions.

Fiscal Analysis:

Historically, the current retirement benefits afforded most law-enforcement officers in the Commonwealth (earlier retirement age; shorter service requirement; higher retirement multiplier; hazardous duty supplement) were designed to compensate for the risks, both physical and mental, experienced on the job by law-enforcement officers, as well as to permit earlier retirement of officers before there is any decline in their ability to physically perform the duties of a law-enforcement officer. Further, the hazardous duty supplement was designed to bridge the gap between hazardous duty employees' earlier retirement age and Social Security eligibility.

Return To Work

Return to work refers to a retiree returning to post-retirement employment with the same employer or another employer in the same retirement system while continuing to receive a retirement benefit. There is considerable flexibility within the existing return-to-work provisions, especially for those who are returning on a part-time basis. At any time, retirees can choose to stop their retirement benefit and return to full-time active employment. Alternatively, there are several additional avenues for a retiree to return to work with a VRS-covered employer and continue to receive retirement benefits. As long as there is no prearrangement with the employer, a retiree can accept:

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- (i) a part-time position in which the retiree can work up to 80 percent of full-time employment after the required one full calendar month break in service;
- (ii) an interim position that lasts no longer than six months after the required one full calendar month break in service and approval from VRS; or
- (iii) a full-time position in one of the eligible position categories (teacher critical shortage, student support critical shortage, school bus drivers, and school security officers) allowed under the *Code of Virginia* after the required six consecutive calendar month break in service.

The impacts of allowing law-enforcement officers to return to work full-time in any law-enforcement position after a six-month break in service were discussed in reports published by VRS in 2022 and 2023 at the direction of the General Assembly (see [Return to Work Provisions Governing Virginia Retirement System \(VRS\) Retirees \(RD856\) - December 15, 2022](#); Return to Work for Law-Enforcement Officers Retired from VRS (RD578) - November 1, 2023). These include the impacts and effect of benefits such as the Affordable Care Act (ACA) and ancillary benefits other than pensions, including COLA, the hazardous duty supplement, the health insurance credit, and workers' compensation claims.

Internal Revenue Service (IRS) guidance under Internal Revenue Code (IRC) § 410, as cited in Private Letter Ruling 201147038, suggests that a one-year period without performing service might be considered a safe harbor to establish severance from employment prior to a retiree returning to work for a plan employer. Failure to meet the facts and circumstances test for a bona fide break in service could jeopardize VRS' plan qualification status, thereby affecting all members and retirees. Qualification as a governmental plan allows pre-tax employee contributions and exemption from taxation on investment earnings, among other tax benefits. Historically, investment earnings fund approximately 2/3 of benefit costs.

Outside benefits counsel has confirmed that IRS guidance allows specifically for a bona fide break in service with no prearrangement for re-employment, and the IRS makes the determination of whether or not there is a break in service using a facts and circumstances test. The IRS has not established a definite safe harbor severance period but has indicated that 12 months may be a sufficient period of time.

While VRS along with benefits counsel believes that a 12-month break in service before a retiree can return to work full time remains optimal to ensure compliance with IRS guidance and to minimize any potential negative impacts from changing retirement patterns, the required break in service for critical shortage public school positions, school bus drivers, and school security officers is currently six months as a result of 2023 legislation.

Who Is Eligible to Return to Work Under § 51.1-155(B)(5)?

Currently, law-enforcement officers employed by the Department of State Police are covered by the State Police Officers' Retirement System (SPORS) (Va. Code § 51.1-200 et seq.), and many other law-enforcement officers employed by the Commonwealth are covered by the Virginia Law Officers'

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Retirement System (VaLORS) (Va. Code § 51.1-211 et seq.). Local governments also have the option under Va. Code § 51.1-138 to provide enhanced hazardous duty benefits to their law-enforcement officers that are similar to those offered to State Police officers. Such enhanced hazardous duty benefits must be provided to deputy sheriffs. Law-enforcement officers who are members of SPORS or VaLORS and local law-enforcement officers who are eligible for enhanced hazardous duty benefits have earlier age and service requirements for retirement eligibility than other VRS members. These law-enforcement officers become eligible for an unreduced retirement benefit at age 50 with at least 25 years of service credit or age 60 with at least five years of service credit and become eligible for a reduced retirement benefit as early as age 50 with five years of service credit.

The tables below provide the number of SPORS, VaLORS, and local law-enforcement members who were eligible to retire as of June 30, 2025. Members who have qualified for unreduced retirement are more likely to take advantage of return-to-work provisions and, as the tables below show, represent nearly 8% of the current active law enforcement population. We also expect that members with eligibility for reduced benefits could elect to retire and continue working in certain circumstances in order to boost take home pay by collecting a retirement benefit and continuing to be paid a full-time salary.

Table 1. Local Law Enforcement Active Population June 30, 2025

	Count	% of Active Population
Total Actives	16,162	
Eligible for Full Unreduced Retirement	1,222	7.6%
Eligible for Reduced Retirement	1,399	8.7%
Total Eligible to Retire as of June 30, 2025	2,621	16.2%

Source: VRS data

Table 2. SPORS Active Population June 30, 2025

	Count	% of Active Population
Total Actives	1,895	
Eligible for Full Unreduced Retirement	300	15.8%
Eligible for Reduced Retirement	111	5.9%
Total Eligible to Retire as of June 30, 2025	411	21.7%

Source: VRS data

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Table 3. VaLORS Law Enforcement Active Duty Population June 30, 2025

	Count	% of Active Population
Total Actives	1,002	
Eligible for Full Unreduced Retirement	102	10.2%
Eligible for Reduced Retirement	112	11.2%
Total Eligible to Retire as of June 30, 2025	214	21.4%

Source: VRS data

Impact of Expanding Return to Work Under the Bill

Return-to-work provisions could result in detrimental changes to retirement patterns, incentivizing retirements earlier than plan assumptions, which could increase liabilities and employer costs over time. The magnitude of the increase will depend upon the volume of members who retire earlier than expected and later return to work under the provisions of the bill. The plans from which they retire could see an increase in costs due to the increased liability associated with retiring earlier than expected in order to receive a pension, potentially a hazardous duty supplement, and active health care, as well as a full-time salary.

Under the bill, a retired law-enforcement officer, such as a SPORS member, could commence their retirement benefits and then return to work as a law-enforcement officer after a six-month break in service. For example, if the member was making \$80,000 per year and had 25 years of service, they could commence their benefit of approximately \$37,000 per year and also receive annual compensation in their new position if they remained actively working. In addition, they would also receive the hazardous duty supplement, currently \$17,856 per year, until they reach their Social Security normal retirement age. In sum, if this hypothetical member were rehired at the same \$80,000 salary, they would be receiving \$134,856 per year, which would represent an increase in annual income of 68.57% when including the retirement benefits. In addition, the member would likely be eligible for the health insurance credit. The member would also be eligible for COLAs, hazardous duty supplement adjustments, and pay increases going forward.

Eligibility for active employee health insurance coverage, which is typically subsidized by employers, will likely encourage even more active employees to retire earlier than anticipated. One reason many employees delay retirement until age 65 is Medicare eligibility. If active employees can retire at age 50, receive a pension with cost-of-living adjustments and potentially a hazardous duty supplement, and, after a six-month break, receive a full-time salary, and employer-subsidized health insurance, it is likely that most retirement-eligible employees would pursue this option. It is important to remember that a law-enforcement officer could retire with a reduced benefit as early as age 50 with at least 5 years of service

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credit or with an unreduced benefit at age 60 with at least five years of service credit or age 50 with at least 25 years of service credit.

Additionally, unlike the current return to work exceptions in the Code for critical shortage public school positions, critical shortage school bus drivers, and school security officers, this bill does not require employers to include retirees' compensation in membership payroll subject to employer contributions under § 51.1-145 of the *Code of Virginia*. As more positions are filled by retirees, less is paid into the VRS Trust Fund in expected employer contributions calculated to fund retirement benefits. Since the retirement plans have unfunded liabilities, this will result in future contribution rates increasing to make up for the smaller active employee payroll that is used to calculate contribution rates. In the pooled plans, this could result in employers paying higher contributions as this applies to all employers in the pool, even if they do not fill positions with retirees instead of active members.

Other: In December 2022, the Virginia Retirement System (VRS) published [Return to Work Provisions Governing Virginia Retirement System \(VRS\) Retirees \(RD856\) - December 15, 2022](#), required by Item 498 of Chapter 2 of the 2022 Special Session I Acts of Assembly. This report comprised a review of the return-to-work (RTW) provisions in place at the time governing VRS retirees, including an overview of the Internal Revenue Service (IRS) laws and regulations regarding return to work, an analysis of Virginia's return-to-work provisions compared to those of other public employee pension plans, and an actuarial analysis of potential modifications to the return-to-work provisions.

Subsequently, in 2023, the General Assembly passed HB 1630 (Chapter 707), SB 1289 (Chapter 690), and SB 1479 (Chapter 708), adopting some of the modifications discussed in RD856. In addition, the General Assembly passed SB 1411 (Chapter 722), which directed VRS and the Department of Criminal Justice Services, in consultation with the Joint Legislative Audit and Review Commission, to review options for allowing law-enforcement officers to return to work as law-enforcement officers after retirement. See [RD578- Return to Work for Law-Enforcement Officers Retired from VRS- Ch. 722 of the 2023 Acts of Assembly- November 1, 2023 report](#) for more information. This report reviewed several potential return-to-work options for retired law-enforcement officers, including the six-month break-in-service provision contained in this bill.

Overview

The bill adds an exemption for a retired law-enforcement officer to return to work full time in any law-enforcement position after a six-month break in service. Unlike the other return-to-work exemptions currently in the Code, the bill does not require employers to include retirees' compensation in membership payroll subject to employer contributions under § 51.1-145 of the *Code of Virginia*. In addition, this bill is not as narrowly tailored as the other return-to-work provisions, so this bill would open the opportunity to return to work and draw a benefit on a larger scale.

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Law-enforcement officers are typically eligible for unreduced retirement benefits earlier than general employees (both earlier age and fewer years of service requirements), and they receive greater benefit payments for the same amount of service. In general, the three main categories of enhanced retirement benefits received by law-enforcement officers are (i) earlier age and service retirement provisions, (ii) a higher retirement multiplier used to calculate retirement benefits, and (iii) a hazardous duty supplement. There may be differences in the enhanced benefits received depending on the law-enforcement officer's employer, and not all law-enforcement officers are entitled to each category of benefits.

Further, one of the underlying rationales for enhanced retirement benefits for law-enforcement officers, the physical and mental stresses associated with law-enforcement employment, is designed to protect officers from injury as they age. This increased potential for injury also impacts other employee benefits, including workers' compensation, short-term disability, long-term disability, and LODA. If retired law-enforcement officers return to work more frequently, as expected if this bill passes, the impacts of and claims related to these other benefits are expected to increase, perhaps significantly, but cannot be fully quantified without valid plan experience. A 2011 JLARC report reiterated that allowing law-enforcement officers to retire early reduces the risk of injury to the officer while simultaneously reducing the potential liability for claims that could result from continued employment:

Allowing [SPORS and VaLORS] employees to retire early reduces the risk of serious injury to the employee, their colleagues, and the public. This allows State agencies to better serve the public and achieve their missions and goals while simultaneously reducing their liability for workers' compensation injury claims or other financial reparations.

Importance of Employer Contributions

Requiring employer contributions for retirees who return to work is critically important to mitigating potentially negative impacts to plan funded status and future contribution rates resulting from employees retiring earlier than anticipated. While not completely making up for the impact of changing retirement patterns, requiring employer contributions would help to make up for some of the potential negative actuarial consequences related to filling VRS active covered positions with retirees. Previous positions that have been legislatively authorized to allow retirees to return to work have experienced shortages in active employee recruitment. If retirees are filling open positions, the contributions for those positions would likely already be accounted for in budget forecasts.

It should be noted that based on limited experience and data following the 2023 changes to the break-in-service legislative requirements from 12 to six months for critical shortage and retiree school security officer (RSSO) positions, there has been a noticeable increase in the number of retirees returning to these positions. As of January 16, 2026, VRS data shows that the number of retirees filling RSSO positions doubled since the break-in-service rule was changed from 12 months to 6 months before the 2022-2023

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school year and more than doubled since then. In 2022-2023 there were 26 retiree school security officers, while there are 66 so far in 2025-2026. Other return-to-work categories show similar increases.

Eligibility for Active Employee Healthcare Coverage

Eligibility for active employee health insurance coverage, which is typically subsidized by employers, will likely encourage even more active employees to retire earlier than anticipated. One reason many employees delay retirement until age 65 is Medicare eligibility. If active employees can retire at age 50, receive a pension with cost-of-living adjustments and potentially a hazardous duty supplement, and, after a 6-month break in service, receive a full-time salary and employer-subsidized health insurance, it is likely that many retirement-eligible employees would pursue this option.

Significance of Required Break in Service

The break-in-service requirement is intended to satisfy IRS guidance, to protect the VRS plan qualification, and to minimize the incentive for employees to retire earlier than they otherwise would. When an employee retires earlier than assumed, it adds costs to the plan since retirement benefits will be paid for a longer period of time than anticipated when contribution rates were set.

From a policy perspective and consistent with advice from benefits counsel, VRS remains committed to the use of a break in service sufficient such that it serves to maintain compliance with the Internal Revenue Code, demonstrates no pre-arranged agreement for reemployment and protects the trust fund by making it less likely that employees will retire earlier than anticipated to take advantage of return-to-work provisions.

No Prearrangement for Re-employment

Importantly, regardless of the break in service period of time, the IRS requires that a member cannot have a prearranged agreement prior to retirement to return to employment. Thus, the longer the required separation from service is, the less likely that the member and employer entered into a prearranged agreement for reemployment.

Importance of Maintaining Plan Qualification

Failure to meet the facts and circumstances test for a bona fide break in service could jeopardize VRS' plan qualification status, thereby affecting all members and retirees. Qualification as a governmental plan allows pre-tax employee contributions and exemption from taxation on investment earnings, among other tax benefits. Historically, investment earnings fund approximately 2/3 of benefit costs. In addition, if the IRS were to determine that a separation in service has not taken place, plan distributions to a retiree younger than age 59 ½ would incur a 10% tax penalty payable by the retiree, not the plan.

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Other Bills

The bill is similar to HB 1107 that allows individuals retired under VRS Chapter 1 to return to work with the Department of Corrections as a correctional officer or instructional employee while continuing to receive retirement benefits, as well as SB 113, which allows retired law-enforcement officers to return to work with a local law-enforcement agency in a civilian role (that does not require law-enforcement certification) as a fingerprint examiner, forensic specialist, property and evidence technician, background investigator, or firearms instructor while continuing to receive retirement benefits. It is also similar to SB 695 that, among other things, allows retired law-enforcement officers to return to work as school resource officers while continuing to receive retirement benefits. In contrast to this bill's provisions, all three of these other bills require that employer contributions be made based on the returning retirees' payroll.