

BILL NO. 31-0146

Thirty-first Legislature of the Virgin Islands

July 1, 2015

An Act amending title 3 Virgin Islands Code, chapters 27 and 28A pertaining to the retirement of government employees

PROPOSED BY: Senator Neville James

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 3 Virgin Islands Code, chapter 27 is amended as follows:

3 §701 (c) is amended in the first sentence by inserting "Government" before "Employees
4 Retirement System" and by striking "of the Government" after "system".

5 §702 (h) is amended by striking "the date of establishment" and inserting
6 "October 1, 1959."

7 §702 (i) is amended by inserting "October 1, 1959" after, "after", and by striking
8 "the date of establishment".

9 §702 (n) is amended in the first sentence by striking the clause, "provided that the
10 maximum amount of compensation to be used for contributions by the members or in the
11 computation of any annuity or benefit hereunder shall be \$65,000".

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1 §703 is amended as follows:

2 (I). In subsection (b) in the second sentence by striking "upon completion of
3 one month of service" and inserting "immediately"

4 (2). In subsection (f) by striking "or per diem "in paragraph (2), striking
5 paragraph (1) in its entirety, renumbering the remaining paragraphs accordingly and re-
6 designating subsection (f) as subsection (g) and inserting a new subsection (f) to read:

7 "(f) Any employee whose services are compensated on a contractual fee or per
8 diem basis and who works exclusively for the Government at least 40 hours per week
9 may be included as a member and receive service credit for such period by paying
10 contributions pursuant to section 704 of this chapter."

11 §704 is amended by striking subsection all of the language in subsection (t) and
12 inserting a new language that reads:

13 "Any member may purchase additional service credit, which must be added to the
14 member's years of service credit already accrued for service worked and contributions
15 paid. Under The following conditions:

16 (1) 'Additional Service Credit' means service credit that may be purchased by
17 the member for time the member has not actually worked while in the service of the
18 employer.

19 "Service Credit" as used in this section has the same meaning as "Membership
20 Service" as used in section 702 (i) & (g) of this chapter.

21 (2) A member may purchase up to 5 years of additional service credit.

22 (3) Once a member makes an election to purchase service credit, the member
23 may not modify or cancel the election, and the member may not make another election to
24 purchase additional service credit, even if the amount of service credit purchased during
25 the first election to purchase additional service credit is less than five years.

1 (4) A member must pay the full amount charged for the additional service
2 credit prior to the member's date of retirement.

3 (5) A member may make payment for additional service credit in a lump sum
4 payment or in bi-weekly installments via payroll deductions before the member's date of
5 retirement. When a member elects to make payment in installment payments via payroll
6 deductions, the member must have a total of two years for each year of additional service
7 credit to make payment, but the final payment must be made before the member's date of
8 retirement.

9 (6) The amount charged to a member for the purchase of additional service
10 credit must include the employer's and employee's share of contribution; however, the
11 system shall also charge to the member an additional charge that is recommended by the
12 System's actuarial consultant. This additional charge must be adopted by the GERS
13 Board of Trustees and administered by the System.

14 (7) A member must have at least 10 years of service credit before the member
15 is eligible to purchase additional service credit.

16 (8) Additional service credit may not be used to qualify a member for duty or
17 non-duty disability.

18 (9) When a member completes payment for additional service credit, the
19 additional service credit must be added to the member's years of service credit, and the
20 member must qualify for a service retirement annuity based on the member's years of
21 membership service. Additional service credit may be used to qualify a member for a
22 regular service retirement annuity only if the member has accrued at least 15 years of
23 service credit by the time the member completes payment for additional service credit.

24 (10) Any member who leaves the payroll for any reason prior to completing
25 payment for purchase of additional service credit may retain the amount of service credit
26 for which the member has already, if the amounts paid equal at least one year of credited

1 service. If the amounts do not equal at least one year of service, the system shall return to
2 the member the amounts the System has received from the member, and no interest may
3 be paid; and

4 (11) The Board of Trustees may change the additional charge or factor as
5 recommended by the System's actuarial consultant, but such adjustment may not be
6 applied to members who at the time of the change are paying for additional service credit
7 on installment.

8 §705 is amended as follows:

9 (1) In subsection (a) by striking "Board" and inserting "System".

10 (2) By striking all of the language in subsection (b) and inserting a new
11 language that reads:

12 “Any member retiring pursuant to this chapter shall notify, in writing, the system
13 of the intent to retire at least one year prior to the date of retirement. The member shall
14 notify the member’s Department Head of the intent to retire at least three months prior to
15 the date of his retirement.”

16 §706 is amended as follows:

17 (1) By adding at the end of subsection (a) a new sentence to read:

18 “For each year, on or after October 1, 2015, the member’s compensation
19 exceeds \$65,000, there must be added to the member’s computed service
20 retirement annuity an amount that is calculated at the rate of 1% times the
21 difference between the member’s compensation and \$65,000”; and

22 (2) By striking subsection (d) in its entirety.

23 §707 is amended as follows:

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1 (1) In subsection (c) by striking "automatically "and by inserting "upon notice
2 to the System "after "void".

3 (2) In subsection (d) in the second sentence, by striking "Board" and inserting
4 "System" and in the third sentence by striking "his" where it first appears and inserting
5 "the" and by striking "his" where it next appears and inserting "an".

6 (3) Subsection (e) is amended by striking all of the language therein and
7 inserting new language that reads: "The surviving spouse of a deceased member who
8 was eligible for a retirement annuity and elected one of the optional settlements specified
9 in this section, shall receive the same benefits as the surviving spouse would have
10 received, if the deceased member's date of death had also been the date of retirement and
11 if retirement had preceded death. In the event benefits are paid to a surviving spouse, no
12 other payments may be made pursuant to this section.

13 §708 is amended in the following instances:

14 (a) In subsection (a) by striking all of the language after "receive and inserting
15 new language that reads as follows: "a retirement duty disability annuity if:

16 (1) Application is made not more than six months after being advised
17 by a physician not selected or designated by the System that the member is
18 permanently and totally incapacitated for service if an accidental disability or six
19 months after the occurrence of disablement if an occupational disease and proper
20 proof is received from one or more physicians designated by the Board that such
21 member is mentally or physically incapacitated;

22 (2) Notice of the accident has been filed with the System within 30
23 days next following the date of the accident;

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1 (3) In the case of members found pursuant to title 3, section 584a,
2 subsection (d) of this Code to be permanently disabled and unfit to perform their
3 duties, application must be made not more than three months after such
4 determination is made pursuant to title 3, section 584a, subsection (d) of this
5 Code, and no prior notice of the accident to the office of the board is required.

6 (4) The decision of the Board must be based on the opinion of the
7 physician selected by the Board and not by the opinion of the physicians selected
8 by the member or any other entity, including, but not limited to the Social
9 Security Administration or Workers Compensation Administration."

10 (b) In subsection (c) by striking "totally and permanently incapacitated means
11 inability to perform substantial gainful employment" and inserting instead paragraphs (1)
12 and (2) to read:

13 “(1) A member is totally disabled only if the member’s physical or mental
14 impairment or impairments are so severe that the member is unable to perform his
15 previous work and cannot engage in any other kind of gainful employment that exists in
16 the territory.

17 (3) “Substantial gainful employment” means any work that is generally done
18 for pay or profit which the member is able to perform with sufficient regularity and
19 duration to provide a reliable source of income which provides an annual income that
20 exceeds the poverty threshold for one person as determined by the Virgin Islands
21 Department of Human services, irrespective of the number of hours or days that the
22 member actually works."

23 (c) In subsection (d), in the first sentence, by striking "Board of Trustees" and
24 inserting "System" and by adding an (s) to "earning" and in the second sentence by
25 striking "Board of Trustees" where it appears for the second time. In the last sentence, by
26 inserting “retirement” after “disability” and before” annuity”.

1 §709 is amended in subsection (c) by striking the "Board of Trustees" and
2 inserting "System"

3 §710 is amended as follows:

4 (1) by inserting "retirement" after "disability" and before "annuity" in the
5 heading.

6 (3) In subsection (b), in the last sentence by inserting "retirement" after
7 "disability" and before "annuity".;

8 (4) In subsection (b) by striking "Board" and inserting "System".

9 (5) In subsection (c), in the first sentence, by striking "board" where it first
10 appears and inserting "System".

11 (6) In subsection (d), in the first sentence, by inserting "retirement" after
12 "disability" and before "annuity", and inserting ", exclusive of any cost of living annuity,
13 bonuses or adjustments" after "annum".

14 (7) In subsection (e) by striking "Board of trustees" and inserting "System".

15 §710a is amended in subsection (b) (3) by striking the "Board of Trustees" and
16 inserting "System".

17 §711 is amended in subsections (a) (b) and (c) by striking "Board" wherever it
18 appears and inserting "System".

19 §712 is amended by striking subsections (b) through (f) and inserting a new
20 subsection (b) that reads as follows:

21 "(b) Upon the death of a retired member, unless an optional benefit has been
22 elected as provided in section 707 of this title, a lump-sum payment equal to the excess of
23 the member's total contributions, over the amounts received by the member in annuity
24 payments up to the time of the death is payable".

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1 §713 is amended as follows:

2 (1) By striking "Board" wherever it appears and inserting "System" and by
3 striking "system" wherever it appears and inserting the "System", and by capitalizing the
4 letter "s" at the beginning "system" wherever it appears.

5 (2) In subsection (a), in the first sentence, by inserting "does not have ten
6 years of credited service and" after "who" and before "is".

7 (3) By adding subsection (c) to read as follows:

8 “(c)(1) “Whenever the System receives from the employer a member’s
9 contributions, due to partial payment of the ‘salary right’ of a member, as defined by
10 3section 702(z) of this chapter, and such contributions are not adequate to permit the
11 System to adjust the member’s service retirement annuity for paid membership service,
12 or, no Notice of Personnel Action (NOPA) is received to permit the System to adjust the
13 member’s service retirement annuity, the System shall refund the member’s
14 contributions.

15 (2) “Payment of the member’s contributions to the member is final and in lieu
16 of the member’s receipt of membership service credit, and the member is not entitled to
17 any membership service credit that the member would have received, or to which the
18 member would have been entitled, if contributions were paid on compensation created by
19 the ‘salary right’.”

20 §714 (d) by striking “Provided That contributions are made for the full calendar
21 year” and inserting a new sentence that reads: “The employer and employee contributions
22 must be made for the full calendar year, including a charge to be determined by the
23 actuary of the System.”

24 §715 is amended in subsection (a):
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1 (1) in the 6th sentence, by inserting "by the retirees" after "elected";

2 (2) in the seventh sentence by inserting "appointed" after "Each" and inserting
3 ", "and each elected member shall serve a term of three years";

4 (3) in paragraph (1) by striking "Appointed" and capitalizing the letter "m" at
5 the beginning of "members"; and

6 (4) in paragraph (2) by striking "investment banking", "law", "medicine",
7 "real estate appraisal or brokerage", "securities trading" and inserting after "taxation",
8 "business management, and business administration, or have a medical degree or law
9 degree" and by adding a sentence that reads: "Individuals with a master of business
10 administration; accounting; business management; finance; actuarial science; and
11 taxation or that are licensed real estate appraisers are also be eligible to serve on the
12 Board of Trustees."

13 §715 (h) and (i) are amended by capitalizing the letter "s" at the beginning of
14 "system" wherever it appears.

15 §717 is amended in the following instances:

16 (1) In subsection (b)

17 (A) at the beginning of the second sentence by striking "However" and
18 at the end of the second sentence after "section" by adding an exception clause
19 that reads: " ; however, the Board may invest a maximum of 15% of the portfolio
20 in below- investment grade securities";

21 (B) By adding a new sentence that reads: "The Board, after
22 determining it is in the best interest of the System, may hold securities that have
23 been downgraded to below investment grade, and those securities do not apply
24 towards the 15% below investment grade allocation".

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1 (C) In the third sentence by striking “man” and inserting “investor”;
2 and

3 (D) In the fourth sentence by striking “the following types of securities
4 and investments and under the conditions and limitations herein prescribed.” and
5 inserting “a diversified portfolio of assets so as to meet the objectives and goals
6 set forth by the Board of Trustees in the System’s Investment Policy Statement.
7 The following types of securities and investments, including certain limitations,
8 must comprise at least 80% of the System’s assets”;

9 (2) In subsection (b) (4) in the first sentence by striking “domestic railroad”,
10 striking “or in equipment of trust certificates” and inserting chartered under the laws of
11 the United States,” and in the second sentence by striking “2%” and inserting “5%”.

12 (3) In subsection (b) (5) by striking” Bonds and other evidence of
13 indebtedness of any domestic public utility corporation provided that these securities and
14 investments” and inserting “Bank loans and convertible securities that” and by striking
15 “BBB” and inserting “B”;

16 (4) In (b) (8) in the third sentence by striking “60%” and inserting “70%” and
17 by striking “on the date the investment is made” and in the fourth sentence by striking
18 “10” and inserting “35”.

19 (5) In subsection (b) (11)

20 (A) at the beginning of the second sentence, by striking "Subject to such rules
21 and regulations that the Board may prescribe", capitalizing the letter "a" "any" and
22 capitalizing the letter "s" at the beginning of "system" throughout the subsection.

23 ((B) in the third sentence by striking “\$50,000” and adding “\$75,000”.

24 (C) in the fourth sentence by inserting “delinquent” before “, striking “shall”
25 and inserting “may”, by striking “any refund of” inserting “accumulated” before

1 “contributions”, and after “contributions” inserting “of the member” and by striking
2 “annuity, death benefit or any other benefit due to the member or to his beneficiary” .

3 (6) In subsection (b) (12) by striking "initial and phases" where it appears for
4 the first and second times and by striking "Board" in the last sentence and inserting the
5 "System";

6 (A) In subsection (b) (12) (B) by striking d "two" and inserting "three" and by
7 striking "\$250,000" and inserting the number "\$350,000".

8 (B) In subsection (b) (12) (C) at the beginning of the sentence by striking
9 “Notwithstanding the age of the member” and at the end of the sentence after, the word,
10 “period”, by adding the phrase, “or until the member reaches age 70”.

11 (C) In subsection (b) (12) (E) by striking "Board" wherever it appears and
12 inserting "System".

13 (D) By striking paragraphs (I) and (J) in subsection (b) (12).

14 E) In subsection (b) (12) (K) by striking the last sentence.

15 (F) In subsection (b) (12) (L) by striking "(11)" and inserting "(12)" and
16 striking the "(b)" the two places where it appear” and inserting “subparagraph ((B))” in.

17 (G) In subsection (b) (12) (N) by striking "Board of Trustees" and inserting
18 "System".

19 (7) Subsection (b) (13) is amended as follows:

20 (A) In subsection (b) (13) (C) by striking "eighteen thousand (\$18,000) dollars"
21 and inserting ""\$40,000"; and

22 (B) In subsection (b) (13) (H) by striking "Board" and inserting
23 "System" and

24 (8) In subsection (b) (14) in the first sentence by striking all of the
25 language after "\$50,000” and inserting immediately following a new sentence that

1 reads: "Retired members may refinance an existing personal loan once per fiscal
2 year in accordance with the regulations established by the Board."

3 (9) In subsection (b) (15), subparagraphs (A) and (F) by striking "Board" and
4 inserting "System".

5 (10) In subsection (b) (16) by striking "Board" where it twice appears and
6 inserting "System".

7 (11) Subsection (b) (17) is amended in the first sentence by striking "BBB" and
8 inserting "B", by striking "2%" and inserting "5%" and at the end of the first sentence
9 after "bonds" by adding "excluding Germany, Canada and Australia", and in the second
10 sentence by striking "10%" and inserting "3%" and by striking "on the date the
11 investment is made."

12 (12) Subsection (b) (18) is amended as follows:

13 (A) The first sentence is amended by striking "during any fiscal year", after
14 "lower" by inserting "anticipated", striking "fund" and inserting "System", after "than"
15 by striking "are" and inserting "would be", striking "provide" and inserting "lead to",
16 striking "equal or", striking "security, including guarantee of yield" and inserting "total
17 portfolio performance" striking "higher yield" and inserting "alternative";

18 (B) In the second sentence by inserting "diversification" before "guidelines",
19 by striking "standards for prudent investment of the fund and inserting "Prudent Investor
20 Standard", striking "alternative investments" and inserting "may deviate from the
21 guidelines provided in this section"; and

22 (C) by striking the third sentence in its entirety.

23 (13) In subsection (b) (20) by adding the following:

24 "(vi) Financial Futures

25 (vii) Swaps, to include, interest Rate Swaps and Credit Default Swaps
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1 (viii) Financial Options and swap options

2 (ix) Non USD currency exposure

3 (x) Currency forwards

4 The instruments identified in vi-x do not apply to the fixed income portfolio 10%
5 maximum”.

6 By re-designing the remaining paragraphs after striking paragraphs (I) and (I).

7 §718 is amended in subsections (a), (d), (h), (j) and (k) by capitalizing the letter
8 "s" at the beginning of "system" wherever it appears and in subsection (e) by striking
9 annually" and inserting "bi-annually";

10 §718a is amended in subsection (t) by capitalizing the letter "s" at the beginning
11 of "system";

12 §718b is amended in the second sentence by striking "six percent" and inserting
13 "a rate" and after "compensation" by inserting “determined by the Board”;

14 §718c (a) is amended by striking "six percent" and inserting "a rate" and after
15 "compensation" where it appears for the second time by inserting "determined by the
16 Board”;

17 §719 is amended:

18 (1) by capitalizing the letter "s" at the beginning of "system" where it appears
19 in the first paragraph for the second time and where it appears in the second paragraph;

20 (2) in §719, paragraphs (1) and (2) by capitalizing the letter "s" at the
21 beginning of "system" where it appears for the first and third time; and

22 (3) and in §719 (4) by capitalizing the letter "s" at the beginning of "system"
23 where it appears for the first time and in the last sentence after “Legislature” by striking "
24 shall prove the annual operating budget for the system".

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1 §720 is amended in the first unnumbered paragraph by striking "Board" and
2 inserting "System";

3 §721 is amended in the first unnumbered paragraph by capitalizing the letter "s"
4 at the beginning of "system";

5 §724 is amended by striking "Board" in subsection (c) and inserting "System" and
6 by adding subsections (d), (e), (f) and (g) to read as follows:

7 (d) Any person who endorses or cashes another member's retirement check
8 without written authorization is guilty of a felony and is subject to the penalties
9 prescribed in subsection (a) of this section.

10 (e) Any person who withdraws the proceeds of another member's retirement
11 check, which was electronically deposited into the member's account, without written
12 authorization, is guilty of a felony is subject to the penalties prescribed by subsection (a)
13 of this section;

14 (f) The acts prescribed in subsections (a), (d), and (e) apply to the
15 endorsement or cashing of retirement checks, or the withdrawal of the proceeds of
16 retirement checks electronically deposited into a member's account, after the member is
17 deceased;

18 (g) Any person who commits an act proscribed in subsections (a), (d), and (e)
19 is subject to any other criminal or civil penalty contained elsewhere in the Virgin Islands
20 Code.”

21 §725 is amended in subsection (a) by capitalizing the letter "s" at the beginning of
22 "system".

23 §729 (e) is amended by striking "employees" and inserting "employee's".

24 §730 is amended by striking subsection (c).

25 §732 is repealed

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1 §733 is amended as follows:

2 (1) In subsection (a) by striking "11%" and inserting "15%".

3 (2) In subsection (c) second unnumbered paragraph, in the last sentence by
4 striking "11%" and inserting "15%" and by striking "members'" after "the" and inserting
5 "member's".

6 (3) In subsection (d), by striking the last line in the paragraph.

7 (4) In subsection (e) by striking the language in paragraph (2) and inserting
8 new language to read:

9 "In the computation of total credit for prior service or membership service, nine
10 months or more of service constitutes one year of service; six to eight months inclusive,
11 constitutes three quarters) of a year; three to five months inclusive, constitutes one half of
12 a year; less than three months constitutes one quarter of one year and not more than one
13 year service credit may be granted for service rendered during a fiscal year. Fifteen days
14 or more of service during any month constitutes one month of service; five to fourteen
15 days inclusive, constitutes one half of one month; less than five days, inclusive
16 constitutes one quarter of a month."

17 (5) In subsection (f) by striking the second unnumbered paragraph; and

18 (6) by adding subsection (k) to read:

19 "(k) No credited service benefit may be paid to any member of the judiciary until
20 the System has received retirement contributions payments from the employer and
21 employee."

22 **SECTION 2.** Title 3 Virgin Islands Code, chapter 28A is amended as follows:

23 §750 (b) and §751(a) (2) are amended by capitalizing the letter "s" at the
24 beginning of "system".

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1 §§751 is amended;

2 (1) in subsection (a) (5) by striking “for the most recent five years” and
3 striking “within the last ten years of service”.

4 §In subsection (a) by adding paragraph (10) to read as follows:

5 “(10) ‘Compensation’ means amounts received as pay, salary or remuneration
6 for services rendered. Overtime pay or compensation for special services may not be
7 included as compensation”; and

8 §751 by striking subsection (b).

9 §752 is amended as follows:

10 (1) In subsection (b) in second sentence by striking "upon completion of one
11 month of service" and inserting "immediately" in its place.

12 (2) By striking the language in subsection (f) in its entirety and inserting new
13 language that reads:

14 "(f) Any employee whose services are compensated on a contractual, fee or per
15 diem basis and who works exclusively for the Government at least 40 hours per week
16 may be included as a member and receive service credit for such periods by paying
17 contributions pursuant to section 704 (f) of this title."

18 (3) By adding a subsection (g) to read:

19 "(g) The following persons are excluded from membership in the System:

20 (1) Any casual employee.

21 (2) Any part-time employee who does not regularly work at least 50%
22 of the normal work period; and

23 (3) Any provisional employee.”

24 §753 is amended as follows:

25 (1) In subsection (a) in the second sentence, and in subsections (d) in the
26 second sentence, subsection (e) in the first sentence, subsection (g), subsection (h) and

1 subsection (j) by capitalizing the letter "s" at the beginning of "system" wherever it
2 appears.

3 (2) At the end of subsection (b) by adding the following sentence: "However,
4 the employee must have been a bona fide Virgin Islands resident prior to entering
5 military service and must have paid an amount equal to contributions that would have
6 been deducted from the employee's salary during the period."

7 (3) In subsection (g) by adding the following sentence at the end of the
8 subsection: "The member shall pay contributions in the manner prescribed in subsection
9 (a) of this section".

10 (4) In subsection (k), in the second sentence, by striking "Board of Trustees"
11 and inserting "System" and in the last sentence by striking "Benefits Division" and
12 inserting "System".

13 (5) In subsection (l) in second sentence by striking "members" and inserting
14 "member" and by striking "Board of Trustees" and inserting "System".

15 (6) In subsection (n) in the fourth sentence, by striking "Benefits Division"
16 and inserting "System's".

17 (7) In subsection (q) by striking all of the language therein and inserting new
18 language that reads:

19 "Any member may purchase additional service credit, which must be added to the
20 member's years of service credit already accrued for service worked and contributions
21 paid under the following conditions:

22 (1) No member may purchase more than five years of additional service
23 credit;

24 (2) Once a member makes an election to purchase additional service credit,
25 the member may not modify or cancel the election, and the member may not make
26 another election to purchase additional service credit, even if the amount of service credit

1 purchased during the first election to purchase additional service credit is less than five
2 years;

3 (3) A member must pay the full amount charged for the additional service
4 credit prior to his date of retirement;

5 (4) A member may make payment for additional service in a lump sum
6 payment or in bi-weekly installments through payroll deductions before the member's
7 date of retirement. When a member elects to make payment in installment payments
8 through payroll deductions member must have a total of two years for each year of
9 additional service credit to make payment, provided that the final payment must be made
10 prior to his date of retirement;

11 (5) The amount that must be charged to a member for the purchase of
12 additional service credit, must at a minimum, include the employer's and the employee's
13 share of contributions; however, the System shall also charge to the member, in addition
14 to the contribution herein prescribed, an additional charge or factor that is recommended
15 by the System's actuarial consultant. This additional charge must be adopted by the
16 GERS Board of Trustees and administered by the Administrator of the System;

17 (6) A member must have at least 10 years of service credit before the member
18 is eligible to purchase additional service credit;

19 (7) Additional service credit may not be used to qualify a member for Duty or
20 Non-Duty Disability;

21 (8) When a member completes payment for additional service credit, the
22 additional service credit must be added to the member's years of service credit, and the
23 member must still qualify for a service retirement annuity based on years of membership
24 service. Additional service credit may be used to qualify a member for a regular service
25 retirement annuity only if the member has accrued at least 15 years of service credit by
26 the time he completes payment for additional service credit;

1 (9) Any member who leaves the payroll for any reason prior to completing
2 payment for purchase of additional service credit may retain the amount of service credit
3 for which the member has already paid, if the amounts paid equal at least one year of
4 credited service. If the amounts do not equal at least one year of service, the System shall
5 return, within 30 business days, to the member the amounts the System has received
6 from the member, and no interest may be paid;

7 (10) The Board of Trustees may change the additional charge or factor
8 recommended by the System's actuarial consultant, but such adjustment may not be
9 applied to members who are at the time paying for additional credit on installment; and

10 (11) 'Additional Service Credit' means service credit that may be purchased by
11 the member for time the member has not actually worked while in the service of the
12 employer. 'Service Credit' as used in this section has the same meaning as "Membership
13 Service" in chapter 27, section 702 (i) of this title".

14 §754 is amended as follows:

15 (1) in subsection (a) by striking "the Board in [care] of";

16 (2) in subsection (b) by striking all of the language and inserting new
17 language that reads:

18 "Any member retiring pursuant to this chapter shall notify, in writing, the System
19 of the intent to retire at least one year prior to the date of retirement. The member shall
20 notify the member's Department Head of the intent to retire at least three months prior to
21 the date of his retirement";

22 (3) In subsection (c) by striking the language after "corrections officer," and
23 inserting in its place new language that reads:

24 "are eligible to receive a retirement annuity at age 60 and upon completion of 10
25 years of service, or age 58 with 25 years of service";

1 (4) In subsection (d), by striking the first sentence and in the second sentence
2 by striking “fifty” and inserting “sixty” , by inserting “credited” after the phrase, “years
3 of”, and by striking “sixty” and inserting “sixty-five”

4 (5) by striking subsection (e);

5 (6) In subsection (f) (1) by striking “sixty” and inserting “sixty-five”.

6 (7) In subsection (f) (2), the fifth sentence, by striking “but not as much as
7 twenty years of credited service”; and by striking “ fifty-five” and inserting “fifty-eight”;
8 and in the last sentence, by striking “sixty” and inserting “sixty-five”.

9 §755 is amended as follows:

10 (1) In subsection (a) by striking the first occurrence “his”, by striking “the
11 aggregate of which shall not exceed 11% of his average compensation” and inserting a
12 new sentence that reads:

13 “For each year, on or after October 1, 2015, the member’s compensation exceeds
14 \$65,000, there must be added to the member’s computed service retirement annuity an
15 amount that is calculated at the rate of 1% times the difference between the member’s
16 compensation and \$65,000.”

17 (2) At the end of subsection (b) (1) by adding the following sentence: "If the
18 member is less than 55 years of age and has 20 years of credited service, the annuity must
19 be calculated at 1.75%, and the member shall receive a reimbursement of the overage in
20 excess of the contribution paid over the regular rate for contributions.”

21 (3) In subsection (b) (2) by striking all of the language after “per year” and
22 inserting new language that reads as follows: “up to \$65,000. For each year, on or after
23 October 1, 2015, the member’s compensation exceeds \$65,000, there must be added to
24 the member’s computed service retirement annuity an amount that is calculated at the rate
25 of 1% times the difference between his compensation and \$65,000.”

1 (4) By striking subsection (b) (3).

2 (5) By striking subsection (d) in its entirety.

3 §756 is amended as follows:

4 (1) In subsection (c) by inserting "upon notice to the System" after "void",
5 and by striking "automatically".

6 (2) In subsection (d) by capitalizing the letter "s" where it first appears in
7 "system".

8 (3) In subsection (e) in the first sentence by striking the first occurrence
9 "surviving spouse" and inserting "whomever the member selected to receive the optional
10 benefit" and striking the second occurrence of "surviving spouse" and inserting
11 "beneficiary".

12 (4) By striking the first two sentences in subsection (f) and inserting a new
13 sentence to read: "The following options are available to members as provided in this
14 section."

15 §757 is amended as follows:

16 (1) By inserting "retirement" after "disability" and before "annuity" in the
17 section heading.

18 (2) In subsection (a) as follows:

19 (A) In the first sentence by inserting "retirement" after "disability" and before
20 "annuity".

21 (B) In subsection paragraph (1) by striking "Board" and inserting "System"
22 and by striking the semicolon at the end and inserting a period, (.), and the following
23 sentence:

24

25

1 "The decision of the Board must be based on the opinion of the physicians
2 selected by the Board and not the opinion of the physicians selected by the member or
3 any other entity, including the Social Security Administration and Worker's
4 Compensation Administration."

5 (C) In paragraph (2) by striking "office of the Board" and inserting "System".

6 (D) In paragraph (3) by striking all of the language after "section" and
7 inserting new language to read:

8 "a member is totally and permanently incapacitated for service if the member's
9 physical or mental impairment is so severe that the member is unable to perform the
10 member's previous work and cannot, considering the member's age, education and work
11 experience, engage in any other kind of substantial gainful employment that exists in the
12 Territory regardless of whether the work exists in the immediate area in which the
13 member lives, a specific job vacancy exists or the member would be hired if the member
14 applied for work."

15 (E) By adding paragraph (4) to read:

16 "(4) "Substantial gainful employment" means any work that is generally done
17 for pay or profit that the member is able to perform with sufficient regularity and duration
18 to provide a reliable source of income that provides an annual income that exceeds the
19 poverty threshold for one person as determined by the Virgin Islands Department of
20 Human Services, irrespective of the number of hours or days that the member actually
21 works."

22 (3) In subsection (b) by inserting "retirement" after "disability" and before
23 "annuity" and by inserting a comma after, "annum", and inserting the phrase, "exclusive
24 of any annual increment or cost of living adjustment."

25

26

1 (4) In subsection (c)

2 (A) in the first sentence by striking "Board of Trustees" and inserting
3 "System", by adding the letter "s" at the end of "earning" and in the second sentence
4 by striking "Board", where it twice appears and inserting s "System" and "System's"
5 respectively; and

6 (B) in the last sentence, by adding "retirement" after "disability" and before
7 "annuity".

8 §758 is amended by adding subsection (d) to read:

9 "(d) If benefits are paid to a surviving spouse or the deceased member's child
10 under this section, no other payments may be made pursuant to this section."

11 §759 is amended as follows:

12 (1) In the section heading and in the last sentence of subsection (a) by adding
13 "retirement" after "disability" and before "annuity" :

14 (2) In subsections (b) and (c) by striking "Board" and inserting "System";

15 (3) In subsection (d) after "annum" by adding "exclusive of any cost of living
16 annuity, bonuses or adjustments ";

17 (4) In subsection (f)

18 (A) in the first sentence by adding "disability retirement" after "non-duty" and
19 before "annuity" and by striking "Board of Trustees" and inserting "System".

20 (B) In subsection second and last sentences by adding "retirement" after
21 "disability" and before "annuity"; and

22 §760 is amended as follows:

23 (1) By inserting "retirement" after disability and before "annuity" in the
24 heading.

(2) In subsection (a) by inserting “retirement“ after “disability” and before “annuity” in the first sentence; by striking “55 and inserting “65” and striking “Board” and inserting “System” wherever it appears in this section.

(3) In subsection (b) by striking “If”, striking " duty” and inserting “retirement” after “disability” and by inserting "who" after "annuity" where it appears for the second time; and

(4) In subsection (c) by striking the "board" and inserting "System" and adding “retirement“ after “disability” and before “annuity” in the last sentence.

§761 is amended as follows:

(1) In subsection (b) by striking the phrase, "of the annual salary of the member at the date of retirement as defined in section 751 (a) of this title, plus".

(2) In subsection (c) by striking the second sentence.

(3) By striking subsection (d) in its entirety.

§762 is amended as follows:

(1) In subsection (a) by inserting after “who” and before “is”, by inserting “does not have ten years of credited service and”.

(2) In subsection (a) (2) by striking "Board" and inserting "System".

(3) In subsection (c) by striking "a [sic] five" and inserting "three" and by adding the following sentence at the end of the subsection a sentence that reads: "The member shall pay to the System the withdrawn contributions, the interest paid on those contributions prior to withdrawal, the income the system would have earned had those contributions remained in the System, and the interest on the unpaid balance, if the member elects to redeposit on an installment basis, but the payments may not exceed a period of three consecutive years."

1 (4) By adding a new subsection (d) as follows:

2 “(d)(1) “Whenever the System receives from the employer a member’s
3 contributions, due to partial payment of the ‘salary right’ of a member, as defined by
4 V.I.C. §702(z), and such contributions are not adequate to permit the System to adjust the
5 member’s service retirement annuity for paid membership service, or, no Notice of
6 Personnel Action (NOPA) is received to permit the System to adjust the member’s
7 service retirement annuity, the System shall refund the member’s contributions to the
8 member.

9 (2) Payment of the member’s contributions to the member is final and in lieu
10 of the member’s receipt of membership service credit, and the member is not entitled to
11 any membership service credit that member would have received, or to which the
12 member would have been entitled, if contributions were paid on compensation created by
13 the ‘salary right.”

14 §763 is amended as follows:

15 (1) In subsection (a) by striking “11 %” and inserting “15%”.

16 (2) In subsection (c) by striking “11%”and inserting “15%” and by striking
17 the last sentence.

18 (3) In subsection (d) after the first occurrence of “contributions” by striking
19 “for the benefits provided herein within four years either through bi-weekly payroll
20 deduction for a deduction [from] their monthly Legislative annuity in order to receive the
21 Legislative annuity and benefits provided under this section” and inserting new language
22 that reads: “including any interest paid, and the income the System would have earned
23 had those contributions remained in the system for the benefits provided, and the interest
24 on the unpaid balance, if the member elects to deposit on an installment basis. If the
25 member elects to pay on an installment basis, the member shall have a maximum of 48

1 months before any retirement benefits are received to pay the contributions and the
2 applicable interest";

3 (4) In subsection (e) by striking "fifty" in the last sentence and inserting
4 "sixty";

5 (5) In subsection (f) by striking paragraph (2); and

6 (6) By adding subsection (l) to read as follows:

7 "(l) In the computation for total credit for prior service or membership service,
8 nine months or more of service constitutes one year of service; six to eight months
9 inclusive, constitutes three quarters of a year; three to five months inclusive, constitutes
10 one half of a year; less than three months constitutes one quarter of a year. Not more than
11 one year service credit may be granted for all service rendered during a fiscal
12 year. Fifteen days or more of service during any month constitutes a month of service;
13 five to fourteen days inclusive constitutes one half of a month; less than five days
14 inclusive constitutes one quarter of a month."

15 §766 is amended as follows:

16 (1) In subsection (b), subsection (b), paragraphs (7), (8), (9), (9),
17 subparagraphs (B) and (C) by striking "system" wherever it appears and inserting
18 "System".

19 (2) In subsection (b)

20 (A) at the beginning of the second sentence by striking "However", and at the
21 end of the second sentence by adding an exception clause that reads: ", however, the
22 Board may invest a maximum of 15% of the portfolio in below investment grade
23 securities";

24

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1 (B) After the second sentence by inserting a new sentence that reads:

2 “The Board, after determining it is in the best interest of the System, may
3 hold securities that have been downgraded to below investment grade, and those
4 securities do not apply towards the 15% below investment grade allocation”;

5 (C) In the third sentence by striking “man” and inserting “investor”; and

6 (D) In the fourth sentence by striking all of the language after “reinvested in”
7 and inserting new language that reads: “a diversified portfolio of assets so as to meet the
8 objectives and goals set forth by the Board of Trustees in the System’s Investment Policy
9 Statement. The following types of securities and investments, including certain
10 limitations, must comprise at least 80% of the System’s assets:”

11 (3) In subsection (b) (4) in the first sentence by striking “domestic railroad”,
12 striking “or in equipment of trust certificates” and inserting chartered under the laws of
13 the United States,” and by striking “BBB” and inserting “B” and in the second sentence
14 by striking “2%” and inserting “5%”.

15 (4) In subsection (b) (5) by striking the first sentence and inserting a new
16 sentence that reads: “Bank loans and convertible securities that bear a rating of “B” or
17 better by any two known security concerns.”

18 (5) In subsection (b) (8), by striking “60%” and inserting “70%”; and striking
19 “10%” and inserting “35%”.

20 (6) In subsection (b) (10)

21 (A) in the second sentence by striking “and subject to the rules and
22 regulations the Board may prescribe”;

23 (B) In the third sentence by striking “\$50,000” and inserting
24 “\$75,000”;

25

(C) In the fourth sentence by inserting “delinquent” before “balance”, by striking “refund of”, by inserting “accumulated” before “contribution” and by striking “annuity, death benefit or any other benefit due to the member or his beneficiary”; and adding “This rate includes a charge for insurance on loans against death or total and permanent disability, which development shall effect a cancellation of any unpaid balance of a loan and any accrued interest;” and

(D) In the sixth sentence by striking “retirement” and after “age” by adding “70”.

(7) In subsection (b) (11) (B) by striking "\$250,000" and inserting "\$350,000".

(8) In (11) (C) by adding the "or age 70" at the end.

(9) In subsection (b) (11) (E), (F), (G), (H), and (I) by striking "system" wherever it appears and inserting "System".

(10) In subsection (b) (11) (M) by striking "system's" and inserting "System's" and by striking "Board of Trustees" and inserting "System".

(11) In subsection (b) (11) (N) by striking "system" and inserting "System" and by striking "Board's" and inserting "System's".

(12) In subsection (b) (12) by striking "system" and inserting "System".

(13) In subsection (b) (12) (C) by striking "\$18,000" and inserting "\$40,000".

(14) In subsection (b) (12) (E) by striking "system's" and inserting "System's".

(15) In subsection (b) (12) (F) by striking "Board" and inserting "System".

(16) In Subsection (b) (13)

(A) in the first sentence by striking “\$10,000” and inserting “\$50,000” and by striking “and that the recipient has no other outstanding loans form the system”;

1 (B) by inserting a new sentence immediately following the first
 2 sentence which reads: "Retired members may refinance an existing personal loan
 3 once per fiscal year in accordance with the regulations established by the Board";
 4 and

5 (C) after the last sentence by adding two new sentences that read: "No
 6 member who has retired may be denied a personal loan because of the member's
 7 age, race, sex, color, creed, national origin, disability, or political affiliation. This
 8 payment must include a charge for insurance on loans against death which
 9 developments effect a cancellation of any unpaid balance of a loan and accrued
 10 interest thereon. The loan authorized under this paragraph is payable within a 10-
 11 year period."

12 (17) In subsection (b) (14) (b) by inserting "land" after "No" and before "loan".

13 (18) In subsection (15) (M) by striking "system's" and inserting "System's."

14 (19) In subsection (b) (16)

15 (A) in the first sentence by striking "BBB" and inserting "B", by striking
 16 "2%" and inserting "5%" and by striking "th [ese]" and inserting "these", and at the end
 17 of the first sentence after "bonds" by adding" excluding Germany, Canada and
 18 Australia"; and

19 (B) in the second sentence by striking "10%" and inserting and inserting "3%"
 20 and by striking "on the date the investment was made";

21 (20) In subsection (b) (17)

22 (A) in the first sentence by striking "during ay fiscal year", after "lower" by
 23 inserting "anticipated", striking "fund" and inserting "System", after "than" by striking
 24 "are" and inserting "would be", striking "provide" and inserting "lead to", striking "equal
 25 or", striking "security, including guarantee of yield" and inserting "total portfolio
 26 performance" striking "higher yield" and inserting "alternative";

1 (B) In the second sentence by inserting “diversification” before “guidelines”,
 2 by striking “standards for prudent investment of the fund and inserting “Prudent Investor
 3 Standard”, striking “alternative investments” and inserting” may deviate from the
 4 guidelines provided in this section; and

5 (C) by striking the third sentence in its entirety.

6 (21) In subsection (19) (A) by adding the following:

7 “(vi) Financial Futures;

8 (vii) Swaps, to include, interest Rate Swaps and Credit Default Swaps;

9 (viii) Financial Options and swap options;

10 (ix) Non USD currency exposure;

11 (x) Currency forwards

12 The instruments identified in vi-x a do not apply to the fixed income portfolio
 13 10% maximum. “

14 §767 is amended as follows:

15 (1) In subsection (b) (3) (e) by striking “annually” and inserting “bi-
 16 annually”.

17 (2) In subsection (b) (3) (g) by striking “Trustee[s] [and inserting “Trustees”.

18 (3) In subsection (b) (3) (h) by striking "twenty one" and inserting "ten".

19 §767b is amended by striking all the language and inserting new language to read:

20 "Notwithstanding any provision of this chapter, participation in any early
 21 retirement program is voluntary for eligible employees as defined in this chapter. Any
 22 person eligible for early retirement may elect within one year of eligibility to participate
 23 in the regular retirement program with contributions as a percentage of compensation
 24 established by law or the Board. If the person eligible for early retirement becomes a
 25 participant in the early retirement program, the person shall pay the difference in
 26 contributions retroactive to the original date of the person’s commencement of

1 employment, the income the System would have earned had the contributions been paid
2 to the System during the period, including interest if paid on installment. The member
3 shall pay to the System, the contributions, the income the System would have earned had
4 the contributions been paid to the System during the period, and the interest on the unpaid
5 balance if the member elects to deposit on an installment basis. If the member elects to
6 pay on an installment basis, the member shall have the maximum of thirty-six months
7 before any retirement benefits are received to pay the contributions and the applicable
8 interest."

9 §767d is amended in subsection (b)

10 (1) In the first sentence after "elect" by inserting "with one year of
11 eligibility"; and

12 (2) At the end of the subsection by adding two sentences that read: "The
13 member shall pay to the System the contributions, the income the System would have
14 earned had the contributions been paid to the System during the period, and the interest
15 on the unpaid balance if the member elects to deposit on an installment basis. If the
16 member elects to pay on an installment basis, the member shall have the maximum of
17 thirty-six months before any retirement benefits are received to pay the contributions and
18 the applicable interest."

19 §770b is amended by adding subsection (f) to read:

20 "(f) The System may withhold any payment for verification that the member is
21 still entitled to the annuity."

22 §770l is amended:

23 (1) in subsection (f) (1) by striking all of the language and inserting new
24 language to read:

25

1 “For all members of the Judiciary at the time of the effective date of this
2 paragraph, vesting in a service retirement annuity attaches upon completion of one term.
3 Any member is eligible for a judicial annuity beginning at age 50 on a judicial annuity
4 equal to rates determined by the Board of Trustees. For all members of the Judiciary
5 appointed after the effective date of this paragraph, vesting in a service retirement annuity
6 attaches upon completion of ten years of service. Any member is eligible for a judicial
7 annuity beginning at age 55 on a judicial annuity equal to rates determined by the Board
8 of Trustees.

9 (2) in (f) (2) by striking all of the language and inserting new language that
10 reads:

11 “In the computation for total credit for prior service or membership service, nine
12 months or more of service constitutes one year of service; six to eight months inclusive,
13 constitutes three quarters of a year; three to five months inclusive, constitutes one half of
14 a year; less than three months constitutes one quarter of a year. Not more than one year
15 service credit may be granted for all service rendered during a fiscal year. Fifteen days or
16 more of service during any month constitutes a month of service; five to fourteen days
17 inclusive constitutes one half of a month; less than five days inclusive constitutes one
18 quarter of a month.”

19 (4) by adding subsection (l) to read:

20 “(l) No credited service benefit may be paid to any member of the judiciary until
21 the system has received retirement contributions payments from the employer and
22 employee.”

23

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26

BILL SUMMARY

SECTION 1 of this Bill amends chapter 27 of title 3 Virgin Islands Code pertaining to the Retirement of Personnel. In section 702 Definitions, prior service would now mean service before October 1, 1959, and membership would mean service after October 1, 1959. In section 703 a member would become eligible to enter the System as soon as he commences employment without having to wait one month before becoming eligible. Contract employees who work 40 hours per week would be eligible to enter the System instead of having to wait five years to become eligible. A federal employee who is not eligible to receive a federal pension can also apply to become a member of the System provided that within 36 months he pays the required sums into the System.

A significant change is added to chapter 27 in section 704 which would authorize a member of the System to purchase additional time for which he has not worked by paying into the System based on a formula prescribed in subsection (t) of section 704. A maximum of five years would be allowed. Subsection 705 would change the amount of notice to be given to the System before retiring. The change would be from three months to one year notice to the System of the intent to retire and a three month notice to the department head.

Subsection 706 would remove the \$65,000 limit on contributions and annuity payments. The member's annuity would be calculated at the stated percentage up to \$65,000 and any compensation which exceeds \$65,000, the rate of 1% times the difference between his compensation and \$65,000 would be added to the computed service retirement annuity.

In subsection 708 the change defines totally and permanently incapacitated and substantial gainful employment.

Subsection 715 adds real estate appraiser, business managers and business administrators among the persons that can be nominated to become members of the Board of Trustees. This widens the pool of professionals that can be selected taking into consideration the level of education required by this section.

Section 717 (b) (12) (B) increases the amount of mortgage money that can be borrowed from \$250,000 to \$350,000 over a maximum of 30 years amortization period. This section also sets an age limit within which the loan is to be paid. That age limit would now be 70 where none existed before. See subsection (b) (12) (C). Auto loans under subsection (b) (13) (C) would increase from \$18,000 to \$40,000. It is interesting to note that while auto loans have increased, loan for the purchase of land remain at \$50,000; see § 717 (b) (15) (B).

Other changes to this chapter include changing the reference to the retirement system as the System and in some instances where the Board of Trustees had certain responsibilities that authority is conferred in the system.

1 SECTION 2 of this Bill amends chapter 28A and changes the benefits program
2 for Tier II members of the system. Subsection 751 adds paragraph (10) and (11) defining
3 who is eligible for early retirement due to their employment. Subsection 753 further
4 clarifies service credit.

5
6 Most of the changes are identical to the changes made to Chapter 27 of Title 3,
7 Virgin Islands code it pertains to the purchase of additional time, the eligibility of
8 members and annuity for disability and the requirements thereto.

9
10 Section 751 changes the definition of average compensation to a career averaging.

11
12 Section 754 increases the early retirement age from 50 to 55, and for regular
13 retirement from 60 to 65.

14
15 Subsection 755 would remove the \$65,000 limit on contributions and annuity
16 payments. The member's annuity would be calculated at the stated percentage up to
17 \$65,000 and any compensation which exceeds \$65,000, the rate of 1% times the
18 difference between his compensation and \$65,000 would be added to the computed
19 service retirement annuity.

20
21 Subsection 766 sets mortgage loans at \$350,000 up from \$250,000 over a 30 year
22 period and adds the age factor of 70 to coincide with the expiration of any credit life
23 insurance policy.

24
25 Section 770 (1) increases the vesting age from 50 to 55 for members of the
26 Judiciary and makes the member eligible for an annuity after ten (10) years of service.
27 The change in this provision will apply to members of the Judiciary appointed after the
28 enactment of this provision.

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34 ***BR15-0856/August24, 2015/ STYLING AND REVIEW FOR LEGAL SUFFICIENCY***

35 ***PENDING***
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