

## Virginia Retirement System

### 2022 Fiscal Impact Statement

**1. Bill Number:** HB 593

**House of Origin**   ☒ Introduced   ☐ Substitute   ☐ Engrossed  
**Second House**   ☐ In Committee   ☐ Substitute   ☐ Enrolled

**2. Patron:** VanValkenburg

**3. Committee:** Appropriations

**4. Title:** Pensions; law-enforcement officers; death before retirement.

**5. Summary:** Provides that when a member of the State Police Officers' Retirement System (SPORS) or the Virginia Law Officers' Retirement System (VaLORS) or a local hazardous duty employee who is eligible for similar benefits dies before retirement by suicide or by a cause compensable under the Line of Duty Act (LODA) in Title 9.1, the retirement allowance payable to his beneficiary shall include any "hazardous duty supplement" for which the member or local hazardous duty employee was eligible.

**6. Summary of Impacts**

**Benefit(s) impacted:** Payment of hazardous duty supplement to the beneficiary of a member of SPORS, VaLORS, or an eligible hazardous duty employee (not just law-enforcement officer) who dies before retirement due to suicide or from a cause compensable under the Line of Duty Act and who was otherwise eligible for the supplement.

**Impact to unfunded liability (see Item 9 for details):** Potential, if contribution rates are not increased for the FY 2023-2024 biennium: \$994,000 for SPORS; \$464,000 for VaLORS; \$8,340,000 in aggregate for local plans. See Exhibit 2 for more details.

**Impact to contribution rate(s) (see Item 9 for details):** The estimated impacts assume that any changes in employer contribution rates will not occur until the next rate-setting valuations effective for FY 2025-2026. If an adjustment to the rates is provided in the FY 2023-2024 Appropriation Act, then any changes in rates would be immediately realized in the FY 2023-2024 rates. See Exhibit 1 for more details.

**Specific Agency or Political Subdivisions Affected (see Item 10):** VRS, VRS-participating employers that employ members of SPORS or VaLORS, VRS-participating political subdivision employers that have elected to provide enhanced hazardous duty benefits for eligible employees.

**VRS cost to implement (see Item 7 and Item 8 for details):** Approximately \$245,000 for FY 2022.

**Employer cost to implement (see Item 7 and Item 8 for details):** Indeterminate. State and local VRS-participating employers may have costs to implement the bill, since the bill requires different benefits depending on cause of death.

**Other VRS and employer impacts (see Items 7, 9, 11, and 12 for details):** The bill does not provide the supplement to beneficiaries after the death of a member who had retired. Since the bill amends § 51.1-207 and § 51.1-218 of the *Code of Virginia*, the bill will also apply to all local employees provided enhanced benefits under § 51.1-138. This includes law-enforcement positions, as well as firefighters, EMTs, regional jail superintendents and jail officers of regional jail farms, regional jails or jail authorities, sheriffs, and deputy sheriffs. The bill will not cover these positions if the locality for which the hazardous duty employees work is not providing the benefits under § 51.1-138 of the *Code* or if the employee is not already eligible for the supplement.

**GF budget impacts (see Item 8 for details):** Potential, if contribution rates are increased in FY 2023-2024.

**NGF budget impacts (see Item 8 for details):** \$245,000 NGF in FY 2022 for implementation.

7. **Budget Amendment Necessary:** Yes. In Item 494, VRS would need a NGF appropriation of approximately \$245,000 for FY 2022 to cover the cost of programming and testing, as well as updating employee and employer communications, with minimal ongoing costs. This does not include the potential impact to future state or local contribution rates or to the funded status of the state or individual local plans, which are discussed below.

## 8. Fiscal Impact Estimates:

### **Fiscal Impact Estimates/Expenditure Impact:**

This does not include impacts to the unfunded liability of SPORS, VaLORS, or individual local plans. See Exhibit 1 and 2 for more details.

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>General Fund</b></i>	<i><b>Non-General Fund &amp; Local Funds</b></i>
2022	\$245,000		---	\$245,000
2023	---		---	---
2024	---		---	---
2025	\$1,295,000		\$170,000	\$1,125,000
2024	\$1,295,000		\$170,000	\$1,125,000
2026	\$1,295,000		\$170,000	\$1,125,000
2027	\$1,295,000		\$170,000	\$1,125,000

9. **Fiscal Implications:** The bill changes when hazardous duty benefits, including the “hazardous duty” supplement, will be paid and who is eligible for the benefits. Currently, § 51.1-206(B) and § 51.1-216(B) provide that members will receive the hazardous duty supplement if they retire with at least 20 years of service in a hazardous duty position under §

51.1-206, § 51.1-216, or from a locality that has elected enhanced benefits for eligible members under § 51.1-138. Currently, the hazardous duty benefit is not payable unless the member retires and does not continue to a beneficiary if the member dies after retirement. Other benefits are available to beneficiaries of eligible members who die in service, including potential LODA benefits.

The bill provides that if an eligible member dies prior to retirement by suicide or is determined to be a deceased person under LODA, the member's beneficiary will receive the supplement payable under subsection B of § 51.1-206 and § 51.1-216 up until the date the member would have ceased being eligible for the supplement. The bill does not make someone eligible for the supplement who would not otherwise have been eligible.

We have prepared estimates of the cost to include the enhanced hazardous duty supplement as part of the death benefit for members who die before retirement. Note that under the proposed legislation, the supplement would still not be payable to the beneficiaries, if any, of those who die after retirement. The costs were prepared using the assumed marriage assumptions utilized in the actuarial valuation - 100% of members are married and males are two years older than females. To the extent that members have beneficiaries that are older or younger than the assumptions, the actual costs will differ. In the case of a significantly younger beneficiary, the costs would be much greater.

Under the legislation the entire amount of the supplement would be payable to the eligible member's beneficiary upon their death in service. When a retirement benefit is paid to a survivor upon a member's death, however, the benefit is actuarially reduced to take into account the survivor payments which is generally about half of the original retirement benefit.

The estimated costs of the bill shown below assume that any impacts in employer contribution rates will not occur until the next rate-setting valuations effective for FY 2025-2026. If an adjustment to the rates is provided in the FY 2023-2024 Appropriation Act, then any changes in rates would be immediately realized in the FY 2023-2024 rates.

## Exhibit 1 – Estimated Cost Impacts If No Change to FY 2023-2024 Contribution Rates

	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>
State - General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SPORS - General Fund	-	-	135,000	135,000	135,000	135,000
VaLORS - General Fund	-	-	35,000	35,000	35,000	35,000
JRS - General Fund	-	-	-	-	-	-
<b>TOTAL General Fund</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 170,000</b>	<b>\$ 170,000</b>	<b>\$ 170,000</b>	<b>\$ 170,000</b>
State - Non-General Funds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SPORS - Non-General Funds	-	-	22,000	22,000	22,000	22,000
VaLORS - Non-General Funds	-	-	4,000	4,000	4,000	4,000
<b>TOTAL - Non-General Funds</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 26,000</b>	<b>\$ 26,000</b>	<b>\$ 26,000</b>	<b>\$ 26,000</b>
Teacher - Local Funds						
Political Subs - In Aggregate	-	-	1,099,000	1,099,000	1,099,000	1,099,000
Political Subs - Schools w/o HIC	-	-	-	-	-	-
Political Subs - Non School	-	-	-	-	-	-
Political Subs - Schools with HIC						
Political Subs - Schools w/o HIC						
Political Subs - Non School						
<b>TOTAL Local Funds</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,099,000</b>	<b>\$ 1,099,000</b>	<b>\$ 1,099,000</b>	<b>\$ 1,099,000</b>
<b>Grand Totals</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,295,000</b>	<b>\$ 1,295,000</b>	<b>\$ 1,295,000</b>	<b>\$ 1,295,000</b>

Estimated projections based on employee data and valuation results as of June 30, 2021 and assume a level population throughout projection period.

Payrolls include proposed pay increases included in Governor's proposed budget for FY 2023 and 2024. Payrolls are assumed to remain level beyond 2024 through remainder of projection period.

The exhibit below shows the impact to plan liabilities and the corresponding change in employer contribution rates.

## Exhibit 2 – Impacts to Plan Liability and Employer Rates

Plan	Change in Liability	Change in Employer Rate
SPORS	\$994,000	0.10%
VaLORS	\$464,000	0.01%
Locals in Aggregate	\$8,340,000	0.02%

**10. Specific Agency or Political Subdivisions Affected:** VRS, VRS-participating employers that employ members of the SPORS or VaLORS, and VRS-participating political subdivision employers that have elected to provide enhanced hazardous duty benefits to eligible hazardous duty employees including the hazardous duty supplement.

**11. Technical Amendment Necessary:** Yes.

To clarify the duration of the hazardous duty supplement in the case of a surviving beneficiary who is a minor child, insert the following language on lines 43 and 101 after “as described in § 51.1-206”:

*, or, in the case of a surviving beneficiary who is a minor child, until such date that the minor child’s benefit otherwise would cease*

In addition, to correct a statutory citation in the bill and to create consistency of the duration of the hazardous duty supplement payment within VaLORS, which is age 65 instead of Social Security normal retirement age,

1. Strike “51.1-206” in Line 100 and insert:

*51.1-217*

2. strike “retirement age, as described in § 51.1-206” in line 101 and insert:

*sixty-fifth birthday*

Additional information on these requested technical changes is included in the Other Comments below.

3. After line 65, insert:

*If the member is a deceased person, as that term is defined in § 9.1-400, and would have been otherwise eligible for the allowance described in the provisions of subsection B of § 51.1-206, then the qualifying survivor shall receive, in addition to the retirement allowance, such additional allowance until the date on which the member would have reached his retirement age, as such term is defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended).*

4. After line 123, insert:

*If the member is a deceased person, as that term is defined in § 9.1-400, and would have been otherwise eligible for the allowance described in the provisions of subsection B of § 51.1-217, then the qualifying survivor shall receive, in addition to the retirement allowance, such additional allowance until the date on which the member would have reached age 65.*

**12. Other Comments:** The bill revises the calculation of a beneficiary’s monthly benefit when a SPORS member, VaLORS member, or political subdivision hazardous duty employee whose employer has elected hazardous duty benefits dies before retirement by suicide or due to a cause compensable under LODA. Specifically, the bill requires that the hazardous duty supplement be included in the beneficiary’s monthly benefit if the member would have been eligible for the supplement upon the date of death and until such time that the member’s

receipt of the supplement would have ended by operation of law. The bill applies prospectively and would not impact any benefits calculated before the bill's effective date.

The bill provides that the supplement would be paid to a beneficiary in the circumstances outlined above. Currently, beneficiaries are not eligible to receive the supplement whether the death of the VRS member occurs before or after retirement. Under current law, the supplement is only payable to retired members, and the supplement benefit ceases upon the retiree's death or when the retiree reaches Social Security normal retirement age (or age 65 for VaLORS members). The benefit is currently not transferrable to a beneficiary. Under statutory construction, absent an enactment clause, the benefits this bill provides would not be applicable in cases that occurred prior to the July 1, 2022 effective date of this legislation.

### Hazardous Duty Supplement

The hazardous duty supplement is an additional monthly benefit provided to certain members who have at least 20 years of qualifying hazardous duty credit and who retire under SPORS, VaLORS, or the retirement plan of a political subdivision that has elected hazardous duty benefits for its employees. The bill would not change the calculation of benefits for the beneficiary if the member were not eligible for the supplement upon his or her death, such as if the member who died did not already have 20 years of qualifying hazardous duty service credit.

The amount of the supplement is adjusted biennially as set forth in §§ 51.1-206 and -217 of the *Code of Virginia*, and the current supplement is \$1,222 monthly (i.e., \$14,664 annually).

When an eligible member retires and begins collecting the supplement, the supplement will continue being paid until a statutory point in time that is different depending on the plan in which the deceased member participated. For SPORS and political subdivision retirees, the supplement ends upon the retiree's Social Security normal retirement age, which is a variable age based on one's date of birth. For VaLORS retirees, the supplement ends upon the retiree's 65<sup>th</sup> birthday. This distinction is important in relation to one of the suggested technical amendments.

### Supplement to be Paid to Beneficiary

Under current law when a SPORS member, VaLORS member, or eligible hazardous duty employee of a political subdivision whose employer has elected enhanced hazardous duty benefits dies before retirement, a beneficiary may be eligible for receipt of a monthly benefit calculated as if the member retired on the member's date of death. However, under § 51.1-207(B) or § 51.1-218(B), as applicable, the hazardous duty supplement currently would be excluded from the beneficiary's monthly benefit regardless of the plan in which the deceased member participated. When a retired member in one of these categories dies, the supplement is not paid to the beneficiary even if a survivor benefit has been elected.

The bill would require the inclusion of the hazardous duty supplement in the beneficiary's monthly benefit if the member's death was the result of suicide or a cause that creates eligibility for LODA death benefits. The bill would require that the supplement end when the member would have reached their Social Security normal retirement age regardless of the plan in which the member participated. Because the bill would bifurcate the expiration of the hazardous duty supplement within VaLORS, VRS has suggested a technical amendment to state that, within VaLORS, a beneficiary's receipt of the supplement would end when the member would have reached age 65 to be consistent with existing VaLORS plan provisions. Also, the reference in Line 100 of the bill to § 51.1-206 should be § 51.1-217.

The other suggested technical amendment relates to how long a beneficiary would receive a monthly benefit if the beneficiary is a minor child. Under current law, the minor child's monthly benefit normally would end upon reaching age 18 pursuant to § 51.1-207(B) or § 51.1-218(B), as applicable. The bill, however, appears to require that a supplement would be paid to a minor child until such time that the member's supplement would have ended, which could be well beyond the minor child's 18<sup>th</sup> birthday, especially in the case of a minor child who is age 16 or 17 when they first begin to receive a monthly benefit as the beneficiary of a deceased member's retirement allowance.

It is possible that the bill will affect only those members who die in service by suicide and not those who die in service from a cause compensable under LODA, in which case the bill would have a significantly lesser effect. This is because if a member dies from a cause compensable under LODA, it is very likely that the cause is also compensable under the Virginia Workers' Compensation Act, and the death benefit for the latter is calculated in a different subsection of the corresponding statute.

In the case of a death in service from a cause compensable under the Virginia Workers' Compensation Act, the death in service benefit is calculated under subsection C of §§ 51.1-207 and -218, and neither of these subsections is amended by the bill (e.g., by adding language about the hazardous duty supplement). It is important to note that the subsections amended by the bill (subsection B of §§ 51.1-207 and -218) contain the condition, "and if no benefits are payable under subsection C." As mentioned above, subsection C of each amended statute governs the calculation of the death benefit for a death in service from a cause compensable under the Virginia Workers' Compensation Act. The condition effectively removes the calculation of the beneficiary's allowance from the amended subsection B, and the amendments do not affect a death in service from a cause compensable under the Virginia Workers' Compensation Act.

In each subsection C of §§ 51.1-207 and -218, the amount of the allowance paid is equal to 50 percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member. If the survivor qualifies for death benefits under the provisions of the

Social Security Act in effect on the date of the death of the member, the allowance payable from the retirement system when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation. The hazardous duty supplement is currently not paid to a beneficiary under subsection C.

The bill would become effective July 1, 2022.

**Date:** 1/24/2022

**Document:** HB593.DOC/VRS