COMMITTEE OF THE WHOLE

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

Be it enacted by the Legislature of the Virgin Islands:

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

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

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

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

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

§703 is amended as follows:

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

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

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

§704 is amended as follows:

1. By striking subsection (t) and inserting a new subsection (t) to read:

"(t) Any member may purchase additional service credit, which must be added to the member’s years of service credit already accrued for service worked and contributions paid.

The following conditions apply:

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

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

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

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

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

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

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

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

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

(9) When a member completes payment for additional service credit, the additional service credit must be added to the member's years of service credit, and the member must qualify for a service retirement annuity based on the member's years of membership service as referred to in paragraph (1) of this subsection. Additional service credit may be used to qualify a member for a regular service retirement annuity only if the member has accrued at least 15 years of service credit by the time the member completes payment for additional service credit.

(10) Any member who leaves the payroll for any reason prior to completing payment for purchase of additional service credit may retain the amount of service credit for which the member has already, if the amounts paid equal at least one year of credited service. If the amounts do not equal at least one year of service, the system shall return to the member the amounts it has received from the member, and no interest may be paid; and

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

§705 is amended as follows:

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

(2) By striking in subsection (b) all of the language and inserting a new subsection (b) to read:

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

§706 is amended as follows:

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

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

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

§707 is amended as follows:

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

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

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

§708 is amended as follows:

(1) The word "retirement "is added after disability and before annuity in the section heading.

(2) In subsection (a) by striking subsection (a) and inserting a new subsection (a) to read:

"(a) Any member who becomes totally and permanently incapacitated for service as the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of his duties, if such injuries or hazard were not the consequences of the willful negligence of the member, shall receive a retirement duty disability annuity if:

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

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

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

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

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

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

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

(4) In subsection (d), in the first sentence, by striking the words "Board of Trustees" and inserting the word "System" and by adding an (s) to the word "earning" and in the second sentence by striking the words "Board of Trustees" where it appears for the second time. In the last sentence, the word “retirement “is added after disability and before annuity.

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

§710 is amended as follows:

(1) The word “retirement “is added after disability and before annuity in the heading.

(2) In subsection (b), in the last sentence “retirement “is added after disability and before annuity.

(3) In subsection (b) by striking the word "Board" and inserting the word "System".

(4) In subsection (c), first sentence, by striking the word "board" where it first appears and inserting the word "System".

(5) In subsection (d), in the first sentence, by adding “retirement” after disability and before annuity, and “, exclusive of any cost of living annuity, bonuses or adjustments" after the word "annum".

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

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

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

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

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

§713 is amended as follows:

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

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

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

“(c)(1) “Whenever the System receives from the employer a member’s contributions, due to partial payment of the ‘salary right’ of a member, as defined by 3 V.I.C. § 702(z), and such contributions are not adequate to permit the System to adjust the member’s service retirement annuity for paid membership service, or, no Notice of

Personnel Action (NOPA) is received to permit the System to adjust the member's service retirement annuity, the System shall refund the member's contributions to the member.

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

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

§715 is amended in subsection (a), in the 6th sentence, by inserting "by the retirees" after "elected"; in the seventh sentence by inserting "appointed" after "Each" and inserting ", and each elected member shall serve a term of three years"; in paragraph (a) (1) by striking the word "Appointed" and capitalizing the letter "m" at the beginning of the word "members"; in subsection (a), paragraph (2) by striking "investment banking", "law", "medicine", "real estate appraisal or brokerage", "securities trading" and inserting after "taxation", "business management, and business administration, or have a medical degree or law degree" and by adding a sentence that reads: "Individuals with a master of business administration; accounting; business management; finance; actuarial science; and taxation or that are licensed real estate appraisers are also be eligible to serve on the Board of Trustees."

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

§717 is amended in the following instances:

(1) In subsection (b)

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

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

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

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

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

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

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

(5) In subsection (b) (11)

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

((B) in the third sentence by striking "$50,000" and adding "$75,000".

(C) in the fourth sentence by inserting "delinquent" before ", striking "shall" and inserting "may", by striking "any refund of "inserting "accumulated" before "contributions", and after "contributions" inserting "of the member" and by striking "annuity, death benefit or any other benefit due to the member or to his beneficiary" .

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

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

(B) In subsection (b) (12) (C) at the beginning of the sentence by striking "Notwithstanding the age of the member" and at the end of the sentence after the word, "period" by adding the phrase, "or age 70".

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

(D) In subsection (b) (12) (G) by striking "refund of" in paragraph (2) and by adding the word "accumulated".

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

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

(G) In subsection (b) (12) (L) by striking "(11)" and inserting "(12)" and striking the "(b)" the two places where it appear" and inserting "subparagraph ((B)" in.

(H) In subsection (b) (12) (N) by striking the words "Board of Trustees" and inserting the word "System".

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

(A) In subsection (b) (13) (C) by striking the word "eighteen" and inserting the word "forty" and by striking " $18,000" and inserting "$40,000"; and

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

(8) In subsection (b) (14) in the first sentence by striking all of the language after "$50,000" and inserting immediately following a new sentence that reads: "Retired members may refinance an existing personal loan once per fiscal year in accordance with the regulations established by the Board."

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

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

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

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

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

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

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

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

“(vi) Financial Futures

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

(viii) Financial Options and swap options

(ix) Non USD currency exposure

(x) Currency forwards

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

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

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

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

§718b is amended in the second sentence by striking the words "six percent" and inserting the words "a rate" and after the word "compensation" by inserting "determined by the Board";

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

§719 is amended by capitalizing the letter "s" at the beginning of the word "system" where it appears in the first paragraph for the second time and where it appears in the second paragraph; in §719 (1) by capitalizing the letter "s" at the beginning of the word "system" where it appears for the first and third time in the first paragraph; in §719 (2) by capitalizing the letter "s" at the beginning of the word "system" wherever it appears and in §719 (4) by capitalizing the letter "s" at the beginning of the word "system" where it appears for the first time and in the last sentence after "Legislature" by striking " shall prove the annual operating budget for the system, and";

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

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

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

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

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

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

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

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

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

§730 is amended by deleting subsection (c).

§732 is repealed

§733 is amended as follows:

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

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

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

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

"In the computation of total credit for prior service or membership service, nine months or more of service constitutes one year of service; six to eight months inclusive, constitutes three quarters (.75) of a year; three to five months inclusive, constitutes one half (.50) of a year; less than three months constitutes one quarter (.25) of one year and not more than one year service credit may be granted for service rendered during a fiscal year. Fifteen days or more of service during any month constitutes one month of service; five to fourteen days inclusive, constitutes one half (.50) of one month; less than five days, inclusive constitutes one quarter (.25) of a month."

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

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

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

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

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

§§751 is amended;

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

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

"(10) 'Compensation' means amounts received as pay, salary or remuneration for services rendered. Overtime pay or compensation for special services may not be included as compensation"; and

§751 by striking subsection (b).

§752 is amended as follows:

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

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

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

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

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

(1) Any casual employee.

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

(3) Any provisional employee."

§753 is amended as follows:

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

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

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

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

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

(5) In subsection (*l*) in second sentence by striking "members" and inserting "member" and by striking the words "Board of Trustees" and inserting the word "System".

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

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

"Any member may purchase additional service credit, which must be added to the member's years of service credit already accrued for service worked and contributions paid.

The following conditions apply:

(1) "Additional Service Credit" means service credit that may be purchased by the member for time the member has not actually worked while in the service of the

employer. "Service Credit" as used in this section has the same meaning as "Membership Service" in chapter 27, section 702 (i) of this title;

(2) No member may purchase more than five years of additional service credit;

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

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

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

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

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

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

(9) When a member completes payment for additional service credit, the additional service credit must be added to the member's years of service credit, and the member must still qualify for a service retirement annuity based on years of membership service, as referred to in paragraph (1) of this subsection. Additional service credit may be used to qualify a member for a regular service retirement annuity only if the member has accrued at least 15 years of service credit by the time he completes payment for additional service credit;

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

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

§754 is amended as follows:

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

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

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

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

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

(4) In subsection (d), by striking the first sentence and in the second sentence by striking "fifty" and inserting "sixty" , by inserting "credited" after the phrase, "years of", and by striking "sixty" and inserting "sixty-five".

(5) by striking subsection (e).

(6) In subsection (f) (1) by striking "sixty" and inserting "sixty-five".

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

§755 is amended as follows:

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

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

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

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

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

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

§756 is amended as follows:

(1) In subsection (c) by inserting the words "upon notice to the System" after “void”, and by striking the word "automatically".

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

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

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

§757 is amended as follows:

(1) By adding “retirement” after “disability” and before “annuity” in the section heading.

(2) In subsection (a) as follows:

(A) In the first sentence by adding “retirement” after “disability” and before “annuity”.

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

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

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

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

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

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

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

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

(4) In subsection (c)

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

(B) in the last sentence, by adding “retirement” after “disability” and before “annuity”.

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

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

§759 is amended as follows:

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

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

(3) In subsection (d) after “annum” by adding the words "exclusive of any cost of living annuity, bonuses or adjustments ";

(4) In subsection (f)

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

(B) In subsection second and last sentences by adding “retirement” after “disability” and before “annuity”; and

§760 is amended as follows:

(1) By adding “retirement” after disability and before “annuity” in the heading.

(2) In subsection (a) by adding “”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) In subsection (d) by striking subsection (d) in its entirety.

§762 is amended as follows:

(1) In subsection (a) by adding after “who” and before “is”, the words “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."

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

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

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

§763 is amended as follows:

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

(2) In subsection (c) by striking "11%"and inserting "15%" and by striking the last sentence.

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

member elects to pay on an installment basis, the member shall have a maximum of 48 months before any retirement benefits are received to pay the contributions and the applicable interest."

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

(5) In subsection (f) by striking paragraph (2).

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

"*(l)* In the computation for total credit for prior service or membership service, nine months or more of service constitutes one year of service; six to eight months inclusive, constitutes three quarters (.75) of a year; three to five months inclusive, constitutes one half (.50) of a year; less than three months constitutes one quarter (.25) of a year. Not more than one year service credit may be granted for all service rendered during a fiscal year. Fifteen days or more of service during any month constitutes a month of service; five to fourteen days inclusive constitutes one half (.50) of a month; less than five days inclusive constitutes one quarter (.25) of a month."

§766 is amended as follows:

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

(2) In subsection (b)

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

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

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

(C) In the third sentence by striking "man" and inserting "investor";

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

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

Bond or any other evidences of indebtedness issued or guaranteed by any corporation chartered under the laws of the United States, provided that these securities bear a rating of "B" or better by any two nationally known security concerns. Not more than 5% of total investments shall consist of any one issue of these bonds."

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

(5) In subsection (b) (8), by striking "60%" and inserting 70%"; and striking "10%" and inserting "35%".

(6) In subsection (b) (10)

(A) in the second sentence by striking “and subject to the rules and regulations the Board may prescribe:

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

(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), (0), (H), and (1) 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 the word "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 "$1 0,000" and inserting "$50,000" and by striking "and that the recipient has no other outstanding loans form the system";

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

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

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

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

(19) In subsection (b) (16)

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

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

(20) In subsection (b) (17)

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

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

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

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

"(vi) Financial Futures;

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

(viii) Financial Options and swap options;

(ix) Non USD currency exposure;

(x) Currency forwards

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

§767 is amended as follows:

(1) In subsection (b) (3) (e) by striking "annually" and inserting "bi-annually".

(2) In subsection (b) (3) (g) by striking "Trustee[s" [and inserting "Trustees".

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

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

"Notwithstanding any provision of this chapter, participation in any early retirement program is voluntary for eligible employees as defined in this chapter. Any person eligible for early retirement may elect within one year of eligibility to participate in the regular retirement program with contributions as a percentage of compensation established by law or the Board. If the person eligible for early retirement becomes a participant in the early retirement program, the person shall pay the difference in contributions retroactive to the original date of the person's commencement of employment, the income the System would have earned had the contributions been paid to the System during the period, including interest if paid on installment. The member shall pay to the System, the contributions, the income the System would have earned had the contributions been paid to the System during the period, and the interest on the unpaid balance if the member elects to deposit on an installment basis. If the member elects to pay on an installment basis, the member shall have the maximum of thirty-six months before any retirement benefits are received to pay the contributions and the applicable interest."

§767d is amended in subsection (b) and inserting

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

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

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

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

§770*l* is amended:

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

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

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

"In the computation for total credit for prior service or membership service, nine months or more of service constitutes one year of service; six to eight months inclusive, constitutes three quarters (.75) of a year; three to five months inclusive, constitutes one half (.50) of a year; less than three months constitutes one quarter (.25) of a year. Not more than one year service credit may be granted for all service rendered during a fiscal year. Fifteen days or more of service during any month constitutes a month of service; five to fourteen days inclusive constitutes one half (.50) of a month; less than five days inclusive constitutes one quarter (.25) of a month."

(4) By adding subsection (*l*) to read:

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

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 an 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.

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

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

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

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

Subsection 755 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.

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

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

BR15-0856/STYLING AND REVIEW FOR LEGAL SUFFICIENCY PENDING