

03/10/2022-AMENDED AND REPORTED OUT TO THE FLOOR

02/01/2022-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

BILL NO. 34-0171

Thirty-Fourth Legislature of the Virgin Islands

December 3, 2021

An Act amending Virgin Islands Code title 3, chapter 27, section 706 and chapter 28A, section 755 relating to the service retirement annuity to allow retirees to reenter government service and retain their annuity while paying a contribution to the Retirement System; amending title 3, chapter 25, subchapter III relating to the government personnel position classification system position to cover positions of annuitants who reenter government service; and for other related purposes

PROPOSED BY: Senators Milton E. Potter, Kenneth L. Gittens, Steven D. Payne, Sr.,
Dwayne M. DeGraff, and Genevieve R. Whitaker
Co-sponsor: Samuel Carrión

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

2 **SECTION 1.** Title 3 Virgin Islands Code, chapter 27, section 706 is amended by
3 redesignating subsection (d) as subsection (e) and inserting a new subsection (d) to read as
4 follows:

5 “(d) Notwithstanding subsection, (c) any retired member of the system, may reenter the
6 service of the government by appointment for a period of time not to exceed 36 months without
7 any effect on the member’s status as retired and without suspension or diminution of the
8 member’s retirement annuity under the following conditions:

1 (1) The prospective central government employing entity must obtain approval
2 from the Director of the Division of Personnel after submitting a written request that
3 states detailed reasons for employing the retired member. The respective hiring agency
4 head of all other government entities is the officer required to approve hire under this
5 provision. Before approving a request to employ a retired member, the appropriate
6 officer must find that:

7 (A) The retired member is qualified and competent for performance of the
8 duties of the position in which member is to be employed;

9 (B) There is an urgent need for the retired member's services as a result of
10 an existing vacancy for which the employing entity has been unable to recruit a
11 qualified individual;

12 (C) The hiring is non-permanent rather than a final filling of the position
13 and is a newly established job classification that results in a new employee number
14 being issued to any retiree reentering government service; and

15 (D) The prospective employer has prepared a detailed recruitment plan to
16 fill the vacancy on a permanent basis.

17 (2) Upon approving employment of a retired member under this subsection, the
18 appropriate officer must certify the approval to the system.

19 (3) The retired member may reenter the government service not earlier than nine
20 months from the date of the member's retirement.

21 (4) Upon reentering government service, the member must pay contributions to
22 the System at the Tier I rate pursuant to section 767 of this title, and the employer shall
23 have a duty to pay its contribution to the system as provided in section 767.

1 (5) Participants under the 65 years of age must be enrolled in the Government
2 health insurance program for active Government employees. The insurance premiums of
3 the participants under 65 years of age must be withheld from their government
4 employment salary. All participants aged 65 and older shall maintain the existing state
5 of affairs with respect to their health insurance.

6 (6) Upon subsequent retirement, the member's annuity does not increase as a
7 result of the member's reemployment under this subsection.

8 (7) Employment under this section must be made via Notice of Personnel Action
9 (NOPA) process, or the regular method of employment used by the hiring agency, except
10 for recipients of Professional Services contracts awarded through the competitive bidding
11 process.

12 (8) Participants hired to fill unionized positions are subject to and must comply
13 with the union's Collective Bargaining Agreement applicable to their position".

14 **SECTION 2.** Title 3 Virgin Islands Code, chapter 28A, section 755 is amended by
15 adding subsection (d) to read as follows:

16 “(d) Notwithstanding subsection (c), any retired member of the system, may
17 reenter the service of the government by appointment for a period of time not to exceed
18 three years without any effect on the member's status as retired and without suspension
19 or diminution of the member's retirement annuity under the following conditions:

20 (1) The prospective central government employing entity must obtain
21 approval from the Director of the Division of Personnel after submitting a written
22 request that states detailed reasons for employing the retired member The
23 respective hiring agency head of all other government entities is the officer required

1 to approve hire under this provision. Before approving a request to employ a retired
2 member, the appropriate officer must find that:

3 (A) The retired member is qualified and competent for performance
4 of the duties of the position in which member is to be employed;

5 (B) There is an urgent need for the retired member's services as a
6 result of an existing vacancy for which the employing entity has been unable
7 to recruit a qualified individual.

8 (C) The hiring is non-permanent rather than a final filling of the
9 position; and

10 (D) The prospective employer has prepared a detailed recruitment
11 plan to fill the vacancy on a permanent basis.

12 (2) Upon approving employment of a retired member under this
13 subsection, the appropriate officer must certify the approval to the system.

14 (3) The retired member may reenter the government service not earlier than
15 nine months from the date of the member's retirement;

16 (4) Upon reentering government service, the member and the employer
17 must pay contributions to the System at the Tier II rate pursuant to section 767 of
18 this chapter and the employer shall have a duty to pay its contribution to the system
19 as provided in section 767; Notwithstanding any other provision in this title, the
20 contributions paid to the system by a person reentering government service after
21 retirement are not refundable after any subsequent retirement by the member;

22 (5) Participants under the age of 65, must be enrolled in the Government
23 health insurance program for active Government employees. The insurance
24 premiums of the participants under 65 years of age must be withheld from their

1 government employment salary. All participants age 65 and over shall maintain
2 the existing state of affairs with respect to their health insurance;

3 (6) Upon subsequent retirement, the member's annuity does not increase as
4 a result of the member's reemployment under this subsection.

5 (7) Employment under this section must be made via the Notice
6 of Personnel Action (NOPA) process, or the regular method of
7 employment used by the hiring agency, except for recipients of
8 Professional Services contracts awarded through the competitive bidding
9 process.

10 (8) Participants hired to fill unionized positions are subject to and
11 must comply with the union's Collective Bargaining Agreement
12 applicable to their position."

13 **SECTION 3.** Title 3 Virgin Islands Code, chapter 25, subchapter III, is amended by
14 inserting section to 492a read as follows:

15 **‘§492a. Coverage of annuitants who reentry Government Service;**

16 The position classification system established by this subchapter is applicable to all
17 classified positions in the Government of the Virgin Islands of government annuitants who
18 reenter government service pursuant to chapter 27 of 28A of this title, under the conditions
19 established in subsections (a) through (d).

20 (a) The Director of Personnel for the central government or the respective agency head
21 for non-central government entities shall approve every participant through the Notice of
22 Personnel Action process (NOPA).

23 (b) Employees under this classification shall earn four hours of annual leave and four
24 hours of sick leave each pay period.

1 (c) The Division of Personnel for the central government or the respective agency head
2 for non-central government entities shall notify the Government Employees Retirement System
3 of each hire made under section 706(d) or section 755(d) of this title. Where appropriate, the
4 Division of Personnel or the respective agency head shall notify the appropriate union of the
5 intent to fill unionized positions through this classification.

6 (d) Upon separation from government employment under the reentry provisions of
7 section 706(d) or section 755(d) of this title, the employee is not entitled to any lump-sum
8 payment for any accumulated annual leave.”

9 **SECTION 4.** The Division of Personnel shall promulgate regulations governing the
10 program established by this act not later than 90 days after enactment.

11 **BILL SUMMARY**

12 The bill allows retired members of the Government Employees Retirement System after
13 18 months of retirement to reenter government employment for a period not to exceed three
14 years. The employment must be by appointment and must be approved and certified to the
15 GERS by the head officer agency employing the retiree. The retired member upon reentering
16 government service must retains the retirement annuity but must pay into to the retirement
17 system, may not make a salary greater than the highest salary received while working, and will
18 receive no increase in annuity as result of reemployment.

19 **BR21-0702/September 3, 2021/YLT**

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