

BILL NO. 31-0251

Thirty-first Legislature of the Virgin Islands

October 16, 2015

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

PROPOSED BY: Senator Neville A. James

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

2 **SECTION 1.** Title 3 Virgin Islands Code, chapter 27, sections 701-705 & 707
3 through 710a are amended in the following instances:

4 **(a)** Section 701 is amended in subsection (c) in the first sentence by inserting
5 "Government" before "Employees Retirement System" and by striking "of the
6 Government" after "system".

7 **(b)** Section 702 is amended as follows:

8 (1) Subsection (h) is amended by striking "the date of establishment"
9 and inserting "October 1, 1959."

1 (2) Subsection (i) is amended by inserting "October 1, 1959" after,
2 "after", and by striking "the date of establishment".

3 (c) Section 703 is amended as follows:

4 (1) Subsection (b) is amended in the second sentence by striking "upon
5 completion of one month of service" and inserting "immediately";

6 (2) Subsection (f) is amended by striking "or per diem" in paragraph (2),
7 striking paragraph (1) in its entirety, renumbering the remaining paragraphs accordingly
8 and re-designating subsection (f) as subsection (g) and inserting a new subsection (f) to
9 read:

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

14 (d) Section 704 is amended by striking all of the language in subsection (t) and
15 inserting new language that reads:

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

19 (1) 'Additional Service Credit' means service credit that may be
20 purchased by the member for time the member has not actually worked while in the
21 service of the employer. "Service Credit" as used in this section has the same
22 meaning as "Membership Service" as used in section 702 (i) of this chapter.

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

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

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

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

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

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

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

1 (9) When a member completes payment for additional service credit,
2 the additional service credit must be added to the member's years of service credit,
3 but the member must qualify for a service retirement annuity based on the
4 member's years of membership service. Additional service credit may be used to
5 qualify a member for a regular service retirement annuity only if the member has
6 accrued at least 15 years of service credit by the time the member completes
7 payment for additional service credit.

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

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

18 (e) Section 705 is amended subsection (a) by striking "Board" and inserting
19 "System".

20 (f) Section 707 is amended as follows:

21 (1) Subsection (c) is amended by striking "automatically" and by inserting
22 "upon notice to the System" after "void".

1 (2) Subsection (d) is amended in the second sentence, by striking "Board" and
2 inserting "System" and in the third sentence by striking "his" where it first appears and
3 inserting "the" and by striking "his" where it next appears and inserting "an".

4 (g) Section 708 is amended as follows:

5 (1). Subsection (a) is amended by striking all of the language after "receive" and
6 inserting new language that reads as follows: "a retirement duty disability annuity if:

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

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

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

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

1 **(2).** Subsection (c) is amended by striking "totally and permanently
2 incapacitated means inability to perform substantial gainful employment" and inserting
3 instead paragraphs (1) and (2) to read:

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

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

14 **(3).** Subsection (d) is amended in the first sentence, by striking "Board of
15 Trustees" and inserting "System" and by adding an "s" to "earning" and in the second
16 sentence by striking "Board of Trustees" where it appears for the second time, and in the
17 last sentence, by inserting “retirement” after “disability” and before” annuity”.

18 **(h)** Section 709 is amended in subsection (c) by striking "Board of Trustees"
19 and inserting "System".

20 **(i)** Section 710 is amended as follows:

21 **(1).** The section heading is amended by inserting “retirement” after
22 “disability” and before “annuity”;

23 **(2).** Subsection (b) is amended by striking "Board" and inserting
24 "System" and by inserting “retirement” after “disability” and before “annuity”;

1 **(3).** Subsection (c) is amended in the first sentence, by striking "board"
2 where it first appears and inserting "System";

3 **(4).** Subsection (d) is amended in the first sentence by inserting
4 “retirement” after “disability” and before “annuity”, and inserting “, exclusive of
5 any cost of living annuity, bonuses or adjustments” after "annum"; and

6 **(5).** Subsection (e) is amended by striking "Board of Trustees" and
7 inserting "System".

8 **(j)** Section 710a is amended in subsection (b), paragraph (3) by striking "Board
9 of Trustees" and inserting "System".

10 **SECTION 2.** Title 3 Virgin Islands Code, chapter 27, sections 711 through 733
11 are amended in the following instance:

12 **(a)** Section 711 is amended in subsections (a) (b) and (c) by striking "Board"
13 wherever it appears and inserting “System”.

14 **(b)** Section 713 is amended as follows:

15 **(1).** The section is amended throughout by striking "Board" wherever it
16 appears and inserting "System" and by striking "system" wherever it appears and
17 inserting the "System", and by capitalizing the letter "s" at the beginning "system"
18 wherever it appears;

19 **(2).** Subsection (a) is amended, in the first sentence, by inserting “does
20 not have ten years of credited service and” after “who” and before “is”; and

21 **(3).** Subsection (c) is added and reads as follows:

22 “(c)(1) “Whenever the System receives from the employer a member’s
23 contributions, due to partial payment of the ‘salary right’ of a member, as defined
24 by section 702(z) of this chapter, and the contributions are not adequate to permit

1 the System to adjust the member's service retirement annuity for paid membership
2 service, or no Notice of Personnel Action (NOPA) is received to permit the System
3 to adjust the member's service retirement annuity, the System shall refund the
4 member's contributions.

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

10 (c) Section 714, subsection (d) is amended by striking "Provided That
11 contributions are made for the full calendar year" and inserting a new sentence that reads:
12 "The employer and employee contributions must be made for the full calendar year,
13 including a charge to be determined by the actuary of the System."

14 (d) Section 715 is amended as follows

15 (1). Subsection (a) is amended in paragraph (1) by striking "Appointed" and
16 capitalizing the letter "m" at the beginning of "members"; and

17 (2). Subsections (h) and (i) are amended by capitalizing the letter "s" at the
18 beginning of "system" wherever it appears.

19 (e) Section 717, section (b) is amended as follow:

20 (1). The introductory paragraph is amended –

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

1 **(B)** by adding a new sentence that reads: “The Board, after determining
2 it is in the best interest of the System, may hold securities that have been
3 downgraded to below investment grade, and those securities do not apply towards
4 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 “the following types of securities
7 and investments and under the conditions and limitations herein prescribed:” and
8 inserting “a diversified portfolio of assets so as to meet the objectives and goals set
9 forth by the Board of Trustees in the System’s Investment Policy Statement. The
10 following types of securities and investments, including certain limitations, must
11 comprise at least 80 percent of the System’s assets”;

12 **(2).** Paragraph (4) is amended in the first sentence by striking “domestic
13 railroad”, striking “or in equipment of trust certificates” and inserting chartered under the
14 laws of the United States,” and in the second sentence by striking “2 percent” and inserting
15 “5 percent”.

16 **(3).** Paragraph (5) is amended by striking “Bonds and other evidence of
17 indebtedness of any domestic public utility corporation provided that these securities and
18 investments” and inserting “Bank loans and convertible securities that” and by striking
19 “BBB” and inserting “B”;

20 **(4).** Paragraph (8) is amended in the third sentence by striking “60 percent ” and
21 inserting “70 percent ” and by striking “on the date the investment is made” and in the
22 fourth sentence by striking “10 percent ” and inserting “25 percent”;

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1 **(5).** Paragraph (11) is amended—

2 **(A)** at the beginning of the second sentence, by striking "Subject to such
3 rules and regulations that the Board may prescribe", capitalizing the letter "a" in
4 "any" striking" has" and inserting "have" and capitalizing the letter "s" at the
5 beginning of "system" throughout the paragraph.

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

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

12 **(6).** Paragraph (12) is amended—

13 **(A)** in the introductory paragraph by striking "initial" and "phases"
14 where they appear for the first and second times and by striking "Board" in the last
15 sentence and inserting "System";

16 **(B)** in subparagraph (B) by striking "two" and inserting "three" and by
17 striking "\$250,000" and inserting the number "\$350,000";

18 **(C)** in subparagraph (C) at the beginning of the sentence by striking
19 "Notwithstanding the age of the member", inserting "not" after "may", striking
20 "for" and inserting "beyond", and at the end of the sentence after, the word,
21 "period", by adding the phrase, "or until the member reaches age 70";

22 **(D)** in subparagraph (E) by striking "Board" wherever it appears and
23 inserting "System";

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1 **(E)** by striking subparagraphs (I) and (J);

2 **(F)** in subparagraph (K) by striking the last sentence;

3 **(G)** in subparagraph (L) by striking "(11)" and inserting "(12)" and
4 striking "paragraph (b)" in the two places where it appears" and inserting
5 "subparagraph ((B))" instead; and

6 **(H)** in subparagraph (N) by striking "Board of Trustees" and inserting
7 "System".

8 **(7).** Paragraph (13) is amended-

9 **(A)** in subparagraph (C) by striking "eighteen thousand (\$18,000)
10 dollars" and inserting "\$40,000"; and

11 **(B)** in subparagraph (H) by striking "Board" and inserting "System."

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

16 **(9).** Paragraph (15) is amended in subparagraphs (A) and (F) by striking "Board"
17 and inserting "System".

18 **(10).** Paragraph (16) is amended by striking "Board" where it twice appears and
19 inserting "System".

20 **(11).** Paragraph (17) is amended in the first sentence by striking "BBB" and
21 inserting "B", by striking "2 percent" and inserting "5 percent" and at the end of the first
22 sentence after "bonds" by adding "excluding Germany, Canada and Australia", and in the
23 second sentence by striking "10 percent" and inserting "3 percent" and by striking "on the
24 date the investment is made".

1 **(12).** Paragraph (18) is amended as follows:

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

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

12 (C) The third sentence is stricken in its entirety.

13 **(13).** Paragraph (20) is amended in subparagraph (A) after clause (v) by adding
14 the following:

15 “(vi) Financial Futures

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

17 (viii) Financial Options and swap options

18 (ix) Non USD currency exposure

19 (x) Currency forwards

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

22 **(f)** Section 718 is amended in subsections (a), (d), (h), (j) and (k) by
23 capitalizing the letter "s" at the beginning of "system" wherever it appears and in subsection
24 (e) by striking “annually” and inserting "bi-annually".

1 **(g)** Section 718a is amended in subsection (t) by capitalizing the letter "s" at the
2 beginning of "system".

3 **(h)** Section 718c (a) is amended by striking "six percent" and inserting "a rate"
4 and after "compensation" where it appears for the second time by inserting "determined by
5 the Board".

6 **(i)** Section 719 is amended, except for the first time it appears, by capitalizing
7 the letter "s" at the beginning of "system" in the introduction, in paragraphs (1) and (2) and
8 in paragraph (4) where it appears for the first time.

9 **(j)** Section 720 is amended in the first unnumbered paragraph by striking
10 "Board" and inserting "System".

11 **(k)** Section 721 is amended in the first unnumbered paragraph by capitalizing
12 the letter "s" at the beginning of "system".

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

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

18 (e) Any person who withdraws the proceeds of another member's retirement
19 check which were electronically deposited into the member's account, without written
20 authorization, is guilty of a felony and is subject to the penalties prescribed by subsection
21 (a) of this section.

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

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

4 (m) Section 725 is amended in subsection (a) by capitalizing the letter "s" at the
5 beginning of "system".

6 (n) Section 729, subsection (e) is amended by striking "employees" and
7 inserting "employee's".

8 (o) Section 732 is repealed.

9 (p) Section 733 is amended as follows:

10 (1). Subsection (a) is amended by striking "11%" and inserting "15%";

11 (2). Subsection (c) is amended in the second unnumbered paragraph, in
12 the last sentence by striking "11%" and inserting "15%" and by striking "members"
13 after "the" and inserting "member's";

14 (3). Subsection (d) is amended by striking the last sentence in the
15 subsection;

16 (4). Subsection (e) is amended by striking the language in paragraph (2)
17 and inserting new language that reads:

18 "In the computation of total credit for prior service or membership service,
19 nine months or more of service constitute one year of service; six to eight months
20 inclusive, constitute three quarters of a year; three to five months inclusive,
21 constitute one half of a year; less than three months constitute one quarter of one
22 year, and not more than one year service credit may be granted for service rendered
23 during a fiscal year. Fifteen days or more of service during any month constitute

1 one month of service; five to fourteen days inclusive, constitute one half of one
2 month; less than five days, inclusive constitute one quarter of a month";

3 (5). Subsection (f) is amended by striking the second unnumbered
4 paragraph; and

5 (6). Subsection (k) is added and reads:

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

9 **SECTION 3.** Title 3 Virgin Islands Code, chapter 28A, sections 750 to 760 are
10 amended as follows:

11 (a) Section 750, subsection (b) and §751(a) (2) are amended by capitalizing the
12 letter "s" at the beginning of "system".

13 (b) Section 751 is further amended as follows:

14 (1) Subsection (a) is amended in paragraph (5) by striking "the average
15 rates of annual compensation for the most recent five years of credited service
16 within the last ten years of service" and inserting "the career average of a member's
17 compensation over the entire course of service provided to the employer."; and

18 (2) Paragraph (10) is added and reads as follows:

19 "(10) 'Compensation' means amounts received as pay, salary or
20 remuneration for services rendered, provided that the maximum amount of
21 compensation to be used for contribution by members or in the computation of any
22 annuity or benefit hereunder shall be \$65,000. Overtime pay or compensation for
23 special services may not be included as compensation"; and

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1 **(3)** Subsection (b) is stricken.

2 **(c)** Section 752 is amended as follows:

3 **(1).** Subsection (b) is amended in second sentence by striking "upon
4 completion of one month of service" and inserting "immediately" in its place.

5 **(2).** Subsection (f) is amended by striking the language in its entirety and
6 inserting new language that reads:

7 "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
9 week may be included as a member and receive service credit for such periods by
10 paying contributions pursuant to section 704 (f) of this title."

11 **(3).** Subsection (g) is added to read:

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

14 **(1)** Any casual employee;

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

17 **(3)** Any provisional employee."

18 **(d)** Section 753 is amended as follows:

19 **(1).** Subsection (a) is amended in the second sentence, subsection (d) in
20 the second sentence , subsection (e) in the first sentence, subsection (g), subsection
21 (h) and subsection (j) by capitalizing the letter "s" at the beginning of "system"
22 wherever it appears.

23 **(2).** Subsection (b) is amended at the end of the subsection by adding the
24 following sentence: "However, the employee must have been a bona fide Virgin

1 Islands resident prior to entering military service and must have paid an amount
2 equal to contributions that would have been deducted from the employee's salary
3 during the period."

4 (3). Subsection (g) is amended by adding the following sentence at the
5 end of the subsection: "The member shall pay contributions in the manner
6 prescribed in subsection (a) of this section."

7 (4). Subsection (k) is amended in the second sentence, by striking
8 "Board of Trustees" and inserting "System" and in the last sentence by striking
9 "Benefits Division" and inserting "System".

10 (5). Subsection (l) is amended in the second sentence by striking
11 "members" and inserting "member" and by striking "Board of Trustees" and
12 inserting "System".

13 (6). Subsection (n) is amended in the fourth sentence, by striking
14 "Benefits Division" and inserting "System's".

15 (7). Subsection (q) is amended by striking all of the language therein and
16 inserting new language that reads:

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

20 (1) No member may purchase more than five years of additional service
21 credit.

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

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

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

5 (4) A member may make payment for additional service credit in a lump
6 sum payment or in bi-weekly installments through payroll deductions before the
7 member's date of retirement.

8 (5) When a member elects to make payment in installment payments
9 through payroll deductions, the member has a total of two years for each year of
10 additional service credit to make payment, but the final payment must be made prior
11 to his date of retirement.

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

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

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

23 (9) When a member completes payment for additional service credit,
24 the additional service credit must be added to the member's years of service credit,

1 and the member must still qualify for a service retirement annuity based on years
2 of membership service. Additional service credit may be used to qualify a member
3 for a regular service retirement annuity only if the member has accrued at least 15
4 years of service credit by the time the member completes payment for additional
5 service credit.

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

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

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

19 (e) Section 754 is amended as follows:

20 (1). Subsection (a) is amended by striking "the Board in [care] of".

21 (2). Subsection (c) is amended by striking the language after
22 "corrections officer," and inserting in its place new language that reads:

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

1 **(3).** Subsection (d) is amended by striking the first sentence and in the
2 second sentence by striking “fifty” and inserting “sixty”, by inserting “credited”
3 after the phrase, “years of”, and by striking “sixty” and inserting “sixty-five”.

4 **(4).** Subsection (e) is stricken.

5 **(5).** Subsection (f), paragraph (1) is amended by striking “sixty” and
6 inserting “sixty-five”.

7 **(6).** Subsection (f), paragraph (2) is amended by striking “but not as
8 much as twenty years of credited service”; and by striking “ fifty-five” and inserting
9 “fifty-eight”; and by striking “sixty” and inserting “sixty-five”.

10 **(f)** Section 755 is amended as follows:

11 **(1).** Subsection (b) is amended—

12 **(A)** in paragraph (1) by adding the following sentence: "If the
13 member is less than 55 years of age and has 20 years of credited service, the
14 annuity must be calculated at 1.75%, and the member shall receive a
15 reimbursement of the overage in excess of the contribution paid over the
16 regular rate for contribution”; and

17 **(B)** Paragraph (3) is stricken.

18 **(2).** Subsection (d) is stricken in its entirety.

19 **(g)** Section 756 is amended as follows:

20 **(1).** Subsection (c) is amended by inserting "upon notice to the System"
21 after “void”, and by striking "automatically".

22 **(2).** Subsection (d) is amended by capitalizing the letter "s" where it
23 first appears in "system".

1 **(3).** Subsection (e) is amended in the first sentence by striking the first
2 occurrence of “surviving spouse” and inserting “whomever the member selected to
3 receive the optional benefit” and striking the second occurrence of “surviving
4 spouse” and inserting “beneficiary”.

5 **(h)** Section 757 is amended as follows:

6 **(1).** The section heading is amended by inserting “retirement” after
7 “disability” and before “annuity”.

8 **(2).** Subsection (a) is amended –

9 **(A)** in the first sentence by inserting “retirement” after
10 “disability” and before “annuity”.

11 **(B)** in paragraph (1) by striking "Board" and inserting "System"
12 and by striking the semicolon at the end and inserting a period, (.), and the
13 following sentence:

14 “The decision of the Board must be based on the opinion of the
15 physicians selected by the Board and not the opinion of the physicians
16 selected by the member or any other entity, including the Worker's
17 Compensation Administration.”

18 **(C)** in paragraph (2) by striking "office of the Board" and
19 inserting "System".

20 **(D)** in paragraph (3) by striking all of the language after
21 “section” and inserting new language to read:

22 “a member is totally and permanently incapacitated for service if the
23 member’s physical or mental impairment is so severe that the member is
24 unable to perform the member’s previous work and cannot, considering the

1 member's age, education and work experience, engage in any other kind of
2 substantial gainful employment that exists in the Territory regardless of
3 whether the work exists in the immediate area in which the member lives, a
4 specific job vacancy exists or the member would be hired if the member
5 applied for work."

6 (E) Paragraph (4) is added and reads:

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

14 (3). Subsection (b) is amended by inserting "retirement" after
15 "disability" and before "annuity" and by inserting a comma after, "annum", and
16 inserting the phrase, "exclusive of any annual increment or cost of living
17 adjustment".

18 (4). Subsection (c) is amended-

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

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

1 **(i)** Section 758 is amended by adding subsection (d) to read:

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

4 **(j)** Section 759 is amended as follows:

5 **(1).** The section heading and the last sentence of subsection (a) are
6 amended by adding "retirement" after "disability" and before "annuity".

7 **(2).** Subsections (b) and (c) are amended by striking "Board" and
8 inserting "System".

9 **(3).** Subsection (d) is amended after "annum" by adding "exclusive of
10 any cost of living annuity, bonuses or adjustments".

11 **(4).** Subsection (f) is amended in the first sentence by adding "disability
12 retirement" after "non-duty" and before "annuity" and by striking "Board of
13 Trustees" and inserting "System" and in in the second and last sentences of the
14 subsection by adding "retirement" after "disability" and before "annuity".

15 **(k)** Section 760 is amended as follows:

16 **(1).** The section heading is amended by inserting "retirement" after
17 disability and before "annuity".

18 **(2).** Subsection (a) is amended by inserting "retirement" after
19 "disability" and before "annuity" in the first sentence; by striking "55" and inserting
20 "65"; and striking "Board" and inserting "System" wherever it appears in this
21 section.

22 **(3).** Subsection (b) is amended by striking "If", and inserting
23 "retirement" after "disability" and by inserting "who" after "annuity" where it
24 appears for the second time.

1 (4). Subsection (c) is amended by striking the "Board" and inserting
2 "System" and inserting "retirement" after "disability" and before "annuity" in the
3 last sentence.

4 **SECTION 4.** Title 28A, sections §762, 763, 766, 767, 767c, 767d, 770b and 770l
5 are amended as in the following instances:

6 (a) Section 762 is amended as follows:

7 (1). Subsection (a) is amended by inserting after "who" and before "is
8 "does not have ten years of credited service and".

9 (2). Subsection (a), paragraph (2) is amended by striking "Board" and
10 inserting "System".

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

18 (4) Subsection (d) is added to read as follows:

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

1 member's service retirement annuity, the System shall refund the member's
2 contributions to the member.

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

8 **(b)** Section 763 is amended as follows:

9 (1). Subsection (a) is amended by striking "11%" and inserting "15%".

10 (2). Subsection (c) is amended by striking "11%" and inserting "15%"
11 and by striking the last sentence.

12 (3). Subsection (d) is amended after the first occurrence of
13 "contributions" by striking "for the benefits provided herein within four years either
14 through bi-weekly payroll deduction for a deduction [from] their monthly
15 Legislative annuity in order to receive the Legislative annuity and benefits provided
16 under this section" and inserting new language that reads: "including any interest
17 paid, and the income the System would have earned had those contributions
18 remained in the system for the benefits provided, and the interest on the unpaid
19 balance, and if the member elects to deposit on an installment basis, the member
20 shall have a maximum of 48 months before any retirement benefits are received to
21 pay the contributions and the applicable interest."

22 (4). Subsection (e) is amended by striking "fifty (50)" in the second
23 sentence and inserting "sixty (60)".

24 (5). Subsection (f) is amended by striking paragraph 2.

1 **(6).** Subsection *(l)* is added and reads as follows:

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

11 **(c)** Section 766 is amended as follows:

12 **(1).** Subsection (b), is amended in paragraphs (7), (8), (9), and (10),
13 subparagraphs (B) and (C) by striking "system" wherever it appears and inserting
14 "System".

15 **(2).** Subsection (b) is further amended—

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

20 **(B)** after the second sentence by inserting a new sentence that
21 reads: “The Board, after determining it is in the best interest of the System,
22 may hold securities that have been downgraded to below investment grade,
23 and those securities do not apply towards the 15% below investment grade
24 allocation”;

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

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

9 (3). Paragraph (4) is amended in the first sentence by striking “domestic
10 railroad”, striking “or in equipment of trust certificates” and inserting chartered
11 under the laws of the United States,” and by striking “BBB” and inserting “B” and
12 in the second sentence by striking “2 percent” and inserting “5 percent”.

13 (4). Paragraph (5) is amended by striking the first sentence and inserting
14 a new sentence that reads: “Bank loans and convertible securities that bear a rating
15 of “B” or better by any two known security concerns”;

16 (5). Paragraph (8) is amended by striking “60 percent” and inserting “70
17 percent”; and striking “10 percent” and inserting “25 percent”.

18 (6). Paragraph (10) is amended—

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

21 (B) in the third sentence by striking “\$50,000” and inserting
22 “\$75,000”;

23 (C) in the fourth sentence by inserting “delinquent” before
24 “balance”, by striking “refund of”, by inserting “accumulated” before

1 “contribution” and by striking “annuity, death benefit or any other benefit
2 due to the member or his beneficiary”; and

3 (D) in the sixth sentence by striking “the retirement” and after
4 “age” by inserting “70”.

5 (7). Paragraph (11), is amended—

6 (A) in subparagraph (B) by striking "\$250,000" and inserting
7 \$350,000";

8 (B) at the end of subparagraph (C) by adding "or age 70";

9 (C) in subparagraphs (E), (F), (G), (H), (I) and (J) by striking
10 "system" wherever it appears and inserting "System";

11 (D) in subparagraph (M) by striking “Board of Trustees” and
12 inserting “System” and by striking “system’s” and inserting “System’s”;
13 and

14 (E) in subparagraph (N) by striking "system" and inserting
15 "System" and by striking "Board's" and inserting "System's".

16 (8). Paragraph (12) is amended--

17 (A) by striking "system" and inserting "System";

18 (B) in subparagraph (C) by striking "\$18,000" and inserting "\$40,000";

19 (C) in subparagraph (E) by striking "system's" and inserting "System's"
20 and striking “system” and inserting “System”; and

21 (D) in subparagraph (F) by striking "Board" and inserting
22 "System".

23 (9). Subparagraph (13) is amended—

1 **(A)** in the first sentence by striking “\$10,000” and inserting
2 “\$50,000” and by striking “and that the recipient has no other outstanding
3 loans from the system”;

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

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

15 **(10).** Paragraph (14), subparagraph (B) is amended by inserting “land”
16 after “No” and before “loan”.

17 **(11).** Paragraph (16) is amended-

18 **(A)** in the first sentence by striking “BBB” and inserting “B”, by
19 striking “2 percent” and inserting “5 percent” and by striking “th[ese]” and
20 inserting “these”, and at the end of the first sentence after “bonds” by adding
21 “excluding Germany, Canada and Australia”; and

22 **(B)** in the second sentence by striking “10 percent” and inserting
23 and inserting “3 percent” and by striking “on the date the investment was
24 made”.

1 **(12).** Paragraph (17) is amended

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

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

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

14 **(13)** Paragraph (19), subparagraph (A) is amended after clause (v) by
15 adding the following:

16 “(vi) Financial Futures;

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

18 (viii) Financial Options and swap options;

19 (ix) Non USD currency exposure;

20 (x) Currency forwards

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

23 **(e)** Section 767 is amended as follows:

1 **(1).** Subsection (e) is amended by striking “annually” and inserting “bi-
2 annually”.

3 **(2).** Subsection (g) is amended by striking “Trustee[s]” and inserting
4 “Trustees”.

5 **(3).** Subsection (h) is amended by striking "twenty one" and inserting
6 "ten".

7 **(f)** Section 767c is amended by striking all the language and inserting new
8 language to read:

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

22 **(g)** Section 767d is amended in subsection (b)-

23 **(1).** in the first sentence after “elect” by inserting “with one year of
24 eligibility”; and

1 **(B)** in paragraph (2) by striking all of the language and inserting
2 new language that reads:

3 “In the computation of total credit for prior service or membership
4 service, nine months or more of service constitute one year of service; six
5 to eight months inclusive, constitute three quarters of a year; three to five
6 months inclusive, constitute one half of a year; less than three months
7 constitute one quarter of a year. Not more than one year of service credit
8 may be granted for all service rendered during a fiscal year. Fifteen days or
9 more of service during any month constitute a month of service; five to
10 fourteen days inclusive constitute one half of a month; less than five days
11 inclusive constitutes one quarter of a month.”

12 **(2).** Subsection (*l*) is added and reads as follows:

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

16 **SECTION 5.** Title 3 Virgin Islands Code, chapter 27, section 704 is amended in
17 subsection (i) by striking “federal service in the V.I.” and in subsection (j) by striking “or
18 the federal government in the Virgin Islands, and”.

19 **SECTION 6.** Title 3 Virgin Islands Code, section 767, subsection (b), paragraph
20 (2), is amended by inserting “eligible employee with the Virgin Islands Water and Power
21 Authority,” after “police officer” where it first appears.

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