



MAJOR POLICY SHIFTS

2011

S.B. 1008

For VRS, SPORS, VaLORS, and JRS active members, the Virginia Legislature set employee contributions at 5% phased in over five years. Active employees received a 1% salary offset and 100% matching employer contributions up to 5% of employee contributions plus 50% of the next 3% of employee contributions, for a maximum matching total employer contribution of 6.5%. Previously employee contributions had been paid partially or wholly by the employer.

2012

S.B. 497

For VRS active municipal and school board employees, the Virginia Legislature set employee contributions at 5% phased in over five years. Active employees received a 1% salary offset and 100% matching employer contributions up to 5% of employee contributions. Previously employee contributions had been paid partially or wholly by the employer.

2012

H.B. 1130

For VRS active state members working on or after July 1, 2010, and active, non-vested members as of January 1, 2013 the Virginia Legislature increased the early retirement age from 55 to 60.

For VRS active members, teachers, or employees of a political subdivision working on or after July 1, 2010, and active non-vested members as of January 1, 2013, the Virginia Legislature increased the normal retirement age from 50 years of age and 30 years of service to 90 in combined age and years of service.

For VRS active non-vested members as of January 1, 2013, the Virginia Legislature reduced the multiplier from 1.70% of the average final compensation to 1.65% multiplied by years of service. The change was prospective beginning January 1, 2013.

For VRS active non-vested members as of January 1, 2013, the Virginia Legislature adjusted the time period used to calculate final average salary from 36 consecutive months of highest compensation to 60 consecutive months of highest compensation.

For VRS active members, the Virginia Legislature reduced the COLA cap from 5% to 3% — with the specific COLA to be adjusted annually based on a Consumer Price Index (CPI)-related calculation — and delayed COLA for early retirees with fewer than 20 years of service until age 65 (normal retirement age).

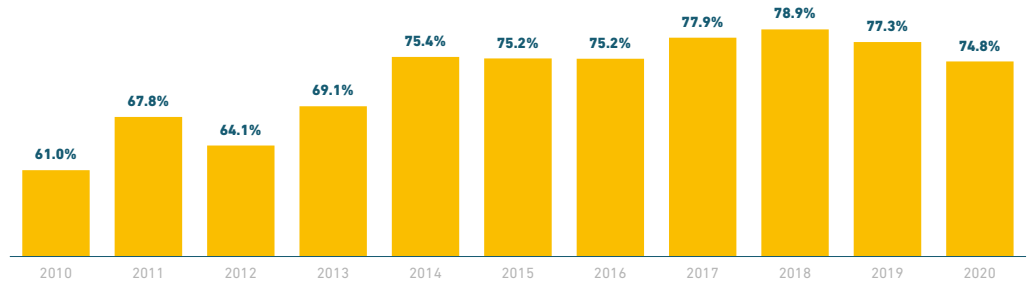
2014

H.B. 10

For JRS active members, the Virginia Legislature capped the retirement allowance at 78% of the employee's average final compensation; there had previously been no cap.

FUNDED RATIO

The graphic below covers the Virginia Retirement System (VRS), which covers all members other than public safety personnel and judges. The State Police Officers' Retirement System (SPORS) covers state police, the Virginia Law Officer's Retirement System (VaLORS) covers other law enforcement personnel and correctional officers, and the Judicial Retirement System (JRS) covers judges.



LEGAL ENVIRONMENT FOR FUTURE POLICY EFFORTS

Legislative efforts confined to new hires are excluded from analysis because they rarely face significant legal challenges.

What are some policy options?	Were there relevant policy shifts for active employees or retirees?	Have there been legal challenges?	What are the legal prospects for future changes?*
<b>INCREASE EMPLOYEE CONTRIBUTIONS</b>	<b>YES</b> S.B. 1008 (2011) S.B. 497 (2012)	<b>NO</b>	<ul style="list-style-type: none"> <li>• FAVORABLE as to active employees</li> <li>• N/A as to retirees</li> </ul>
<b>DECREASE OR ELIMINATE COST-OF-LIVING ADJUSTMENTS</b>	<b>YES</b> H.B. 1130 (2012)	<b>NO</b>	<ul style="list-style-type: none"> <li>• FAVORABLE as to active employees</li> <li>• UNDEVELOPED as to retirees</li> </ul>
<b>CHANGE VESTING PERIOD</b>	<b>YES</b> H.B. 1130 (2012)	<b>NO</b>	<ul style="list-style-type: none"> <li>• FAVORABLE as to active employees</li> <li>• N/A as to retirees</li> </ul>
<b>CHANGE BENEFIT CALCULATION</b>	<b>YES</b> H.B. 1130 (2012) H.B. 10 (2014)	<b>YES</b> Under pre-H.B. 1130 Defined Benefit plan, city's changes to benefit calculation survived legal challenge in <i>Avery v. City of Norfolk</i> (2003)	<ul style="list-style-type: none"> <li>• FAVORABLE as to active employees</li> <li>• UNFAVORABLE as to retirees</li> </ul>
<b>CHANGE RETIREMENT AGE</b>	<b>YES</b> H.B. 1130 (2012)	<b>NO</b>	<ul style="list-style-type: none"> <li>• FAVORABLE as to active employees</li> <li>• N/A as to retirees</li> </ul>

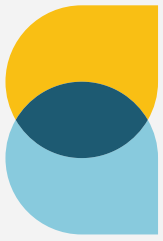
\* FAVORABLE indicates that the issue survived litigation in the past and/or there is a permissive legal environment for the change.  
 \* UNFAVORABLE indicates that the issue did not survive litigation in the past and/or there is a non-permissive legal environment the change.  
 \* UNDEVELOPED indicates that the issue has not been litigated and/or the current legal environment is unclear as to what the outcome would be.



VIRGINIA

# LEGAL ENVIRONMENT FOR PENSION POLICIES

As of August 2021



## VIRGINIA STATE LAW CONTEXT

### State Provisions

**VIRGINIA CONSTITUTION ARTICLE 1, SECTION 11:** “Due process of law; obligation of contracts; taking or damaging of private property; prohibited discrimination; jury trial in civil cases: . . . that the General Assembly shall not pass any law impairing the obligation of contracts . . .”

**VIRGINIA CONSTITUTION ARTICLE 10, SECTION 11:** “The General Assembly shall maintain a retirement system for state employees and employees of participating political subdivisions and school divisions. The funds of the retirement system shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the members and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the retirement system. Such trust funds shall be invested as authorized by law. Retirement system benefits shall be funded using methods which are consistent with generally accepted actuarial principles. The retirement system shall be subject to restrictions, terms, and conditions as may be prescribed by the General Assembly.”

### Key Opinions

**PITTS V. CITY OF RICHMOND, 366 S.E.2D 56 (VA. 1988)**

Widows of two firefighters who retired for work-related disabilities sued the city for survivor’s benefits under the city’s retirement system. The Supreme Court of Virginia held that the widows were not entitled to additional benefits because the firefighters had not satisfied the plan requirements for survivor’s benefits in place at the time they stopped working due to their respective disabilities. The widows claimed that they were entitled to the benefits based on terms that had been in place at different points during their spouses’ employment. The court held that the retirement plan was in the nature of a unilateral contract whose terms the city had a right to change up until the date that an employee has met all conditions for receiving benefits including reaching a specified age. *Pitts v. City of Richmond*, 366 S.E.2d 56 at 61. It is only at that point that the employee’s contract rights in specific plan terms are vested.

**AVERY V. CITY OF NORFOLK, 61 VA. CIR. 453 (CIR. CT. 2003)**

Active and retired firefighters and police officers working for the city from before 1970 sued for retirement benefits based on plan terms established in 1972 rather than terms that went into effect in 1997 while all were still working. The Circuit Court of the City of Norfolk held that the employees’ benefits were subject to the 1997 amendments because they had not yet retired. Their rights to the specific terms of the retirement plan vested only after they had performed all requirements completely, including retiring. The employees who had not retired before the plan amendments became effective were subject to the amendments. *Avery v. City of Norfolk*, 61 Va. Cir. 453 at 462. The city could modify the terms of an employee’s retirement benefits at any time up until that point so long as it did not do so for punitive purposes. *Id.*

#### FOR MORE INFORMATION

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