

**REPORT OF THE VIRGINIA RETIREMENT
SYSTEM**

**Impact of the Hybrid Retirement
Plan on Judicial Appointments
(2024 Appropriation Act, Item
484.I.)**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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Report of the Work Group to the General Assembly

Impact of the Hybrid Retirement Plan on Judicial Appointments

2024 Special Session I Acts of Assembly
Item 484, Chapter 2

Virginia Retirement System

History of Judicial Retirement Benefits in Virginia

1914

The first judicial retirement benefit in Virginia was created in 1914 for the Justices of the Supreme Court of Appeals and provided a pension of two-thirds (approximately 66%) annual compensation at age 70 with ten years of service.

1942

A VRS system was created covering judges of courts of record as well as members of the State Corporation Commission and the Industrial Commission who would receive 75% of their salary after 12 years of service and attaining age 65.

1952

A system was created outside of VRS covering the Clerk of the Senate and the Clerk of the House of Delegates who would receive 75% of their salary after 20 years of service and attaining age 70.

1954

A system was created outside of VRS governing judges of county courts not of record who could retire after 15 years of service and attaining age 70. ^[1]

1970

The Judicial Retirement System (JRS) was created to replace the three prior judicial retirement systems. Administered by the Virginia Supplemental Retirement System (VSRS, which later became VRS) Board of Trustees, JRS was established for the justices of the Virginia Supreme Court, judges of courts of record, members of the State Corporation Commission and Industrial Commission^[2], judges of district courts other than substitute judges, and the Executive Secretary of the Supreme Court who assumed the position between December 1, 1975 and January 31, 1976. The Clerks of the Senate and the House of Delegates and the Assistant Attorneys General were included under the VSRS.

The respective Clerks were moved under the state employee plan and the judges and members of the State Corporation Commission and Industrial Commission became members of JRS. This is colloquially known as Plan 1 now.

2010

The General Assembly passed legislation creating Plan 2 for all members joining on or after July 1, 2010, including judges.

2012

The General Assembly passed legislation creating the Hybrid Retirement Plan for all members (other than those in SPORS, VALORS, or with enhanced hazardous duty benefits) joining for the first time or rejoining following a refund on or after January 1, 2014, and for judges appointed or elected

to an initial term on or after January 1, 2014, regardless of whether the new judge had prior VRS service, in accordance with §§ 51.1-304 and 51.1-306.1 of the *Code of Virginia*. The Hybrid Retirement plan is a combination of a DB plan and a DC plan.

^[1] *Report of the Virginia Retirement Study Commission*, 1980 House Document 31, page 45.

^[2] The Industrial Commission was renamed the Virginia Workers' Compensation Commission in 1991. 1991 Va. Acts ch. 355.

Major Plan Design Changes

Weighting

July 1, 1970

Weighting factor of 3.5 established with creation of JRS.

1970 Va. Acts ch. 777

July 1, 1994

Weighting factor decreased from 3.5 to 2.5 for judges appointed or elected to an original term on or after January 1, 1995. Judges in service on December 31, 1994, retain the 3.5 weighting factor.

1994 Va. Acts ch. 821 & 899

July 1, 2010

Tiered weighting factors based on age applicable for judges appointed or elected to an original term on or after July 1, 2010:

- (i) 1.5 if the member was less than 45;
- (ii) 2.0 if the member was at least 45 and less than 55; and
- (iii) 2.5 if the member was at least 55.

2010 Va. Acts ch. 737 & 737

Maximum Retirement Benefit

July 1, 1970

Maximum retirement allowance of 75% of average final compensation established with creation of JRS.

1970 Va. Acts ch. 777

July 1, 1998

Effective January 1, 1999, increased the maximum retirement allowance from 75% to 78% of average final compensation.

1998 Va. Acts ch. 674.

Mandatory Retirement

July 1, 1970

Mandatory retirement age of 70 established with creation of JRS.
1970 Va. Acts ch. 777

July 1, 1990

Mandatory retirement age repealed as part of the recodification of Title 51 into Title 51.1 in the wake of court cases holding that a mandatory retirement age for judges violated the federal Age Discrimination in Employment Act.
1990 Va. Acts ch. 832

July 1, 1992

Mandatory retirement age of 70 reestablished for all judges appointed or elected to an original or subsequent term on or after July 1, 1993, after U.S. Supreme Court ruled that mandatory retirement ages for judges were permissible.
1992 Va. Acts ch. 694

July 1, 2015

Mandatory retirement age increased to 73 for all Supreme Court justices and Court of Appeals judges and for all circuit court, GDC, and JDR judges appointed or elected to an original or subsequent term on or after July 1, 2015
2015 Va. Acts ch. 762 & 773

June 1, 2017

Made mandatory retirement age of 73 applicable to all judges regardless of when appointed or elected.
2016 Va. Acts ch. 667

Work Group Mandate

Chapter 2 of the 2024 Special Session I of the General Assembly Item 484 required that the Virginia Retirement System (VRS) examine the impacts of the Hybrid Retirement Plan (Hybrid or Hybrid plan) on judicial appointments, as well as options to modify the benefit structure. The language specifically requires that:

The Director of the Virginia Retirement System shall convene a workgroup including staff from the House Appropriations Committee, the Senate Finance and Appropriations Committee, and the office of the Executive Secretary of the Supreme Court to examine the impact the hybrid retirement system has had on judicial appointments. The review shall also include an analysis of the structure of other states' retirement benefits for judges, specifically looking at other states which provide a hybrid benefit, and options for modifying the current benefit structure for judges including an analysis of the project cost and impact on the unfunded liability of the potential changes. The workgroup shall provide a report to the General Assembly and Governor by December 1, 2024.

This report provides an analysis of four options to consider if the General Assembly chooses to amend JRS.

Executive Summary

History of Virginia's Judicial Retirement System

The first judicial retirement benefit in Virginia was created in 1914 for the Justices of the Supreme Court of Appeals and provided a pension of two-thirds (approximately 66%) annual compensation at age 70 with ten years of service. Virginia's current JRS was created in the Code of Virginia in 1970, replacing three existing judicial retirement systems. The provisions governing JRS from that time have developed into what is now colloquially known as Plan 1.

Pension Reform

In the wake of the 2008-2009 financial crisis, the General Assembly passed legislation creating Plan 2 for all members joining on or after July 1, 2010, including judges. The legislation was enacted with the goal to help ensure that retirement benefits for government employees would remain sustainable.

Again following the Great Financial Crisis, with the establishment of the Hybrid Retirement Plan the General Assembly determined that future employees would have to share in the longevity and investment risk of their retirement plans and that future benefits would be designed differently. The new plan designs would not only require risk sharing, but also require additional effort by employees in the form of mandatory and voluntary defined contributions that would in turn be matched by employers based on a statutory schedule.

Prior to plan design changes, employer rates for the JRS plan exceeded 50% of covered payroll and were trending upward. In addition, from 2002 to 2016 as employer contribution rates continued to increase

the employer contribution rates were not funded at the actuarially determined and required level which generated unfunded liabilities for the JRS plan (see Chart 1 on page 15).

In 2012, the General Assembly passed legislation creating the Hybrid Retirement Plan for all members joining for the first time or rejoining following a refund on or after January 1, 2014, and for all judges appointed or elected to an initial term on or after January 1, 2014, in accordance with §§ 51.1-304 and 51.1-306.1 of the *Code of Virginia*. The Hybrid Retirement Plan is a combination of a Defined Benefit (DB) plan or pension and a Defined Contribution (DC) or 401(k)-style plan. The Hybrid Retirement Plan's design was intended to maintain a foundational DB portion of the plan, improve funded status, incorporate risk sharing between the employer and employee, enhance portability, and lower future employer costs. In addition, members who take full advantage of their voluntary contributions and employer matching funds will be able to accumulate assets for retirement savings in a manner not available to DB plan holders with only the statutory DB benefit formula.

Judges are covered under the Hybrid Retirement Plan if they are appointed or elected to an original term as a judge on or after January 1, 2014, even if the judge had prior service in any other VRS system. Note that if a judge who is a member of the hybrid plan has any prior service with VRS in either Plan 1 or Plan 2 prior to becoming a judge, such prior service will be added to the member's benefit using the service and benefit multiplier of those prior plans.

Weighting Factors

Judicial service is subject to a weighting factor which serves to accelerate the pace at which a judge accrues service credit. The weighting factor is a plan design feature unique to both Virginia and the judicial retirement plan. As discussed later in the report (see page 16), the weighting factors have changed over time and are now structured based on age at the time of appointment or election to an original term. The use of a weighting factor produces a higher retirement benefit for judges, including for hybrid retirement plan judges, without a higher service retirement multiplier.

Service Retirement Multiplier

The VRS membership date, as well as the date of original appointment or election, both determine the retirement multiplier that is applied in the benefit calculation for a judge. A retirement multiplier is a factor that determines how much of your average final compensation will be used to calculate your retirement benefit under the defined benefit component. (Discussion of the service retirement multiplier can be found on page 19).

Age At Appointment

Judges are typically elected or appointed after acquiring other work experience, which can occur in a VRS-covered position, in governmental service not covered by VRS (e.g., federal service), in the private sector, or a combination of any or all of the three. Historical data shows that the average age at appointment has been consistently around 44 or 45 years old since at least 1979 (see page 21). In addition, judges are subject to mandatory retirement.

Looking at the current judicial population, the data shows that the age at initial appointment distribution of those with prior VRS service is very similar to those without prior VRS service.

Based on the current active JRS population, 47% of judges have prior VRS service and 53% do not have prior VRS service.

Impact of Hybrid Retirement Plan on Judicial Appointments

When considering accepting employment with the Commonwealth, a number of factors are considered, including but not limited to the type of work, salary, and employee benefits the role provides. Whether the hybrid plan has had impacts on judicial appointments is difficult to quantify due to data limitations. However, measuring the available data on judicial vacancies does not appear to show that there have been difficulties with filling allocated positions as a result of the implementation of the Hybrid Retirement Plan (see page 23).

Retirement Benefits

While the benefit formulas for JRS members are the same as general employees, JRS members accrue service at an accelerated rate due to service weighting. What this means is that JRS retirement benefits are higher than general employee retirement benefits because it does not take as long to accrue the same or an even higher level of benefits.

Another feature unique to JRS is the cap on the maximum retirement allowance that a judge may receive. This maximum benefit is designed to serve as a check on service weighting for judicial service. A maximum benefit has been a feature of judicial retirement since 1914 when the first retirement benefit for justices of the Supreme Court was established and fixed at two-thirds of the justice's salary. The *Code of Virginia* requires that judges receive a maximum benefit of no more than 78% of average final compensation in most circumstances (75% from July 1, 1970 to July 1, 1998).

While judges in the Hybrid plan, especially judges who had no prior VRS-covered service, may not receive the maximum retirement allowance upon retirement, the 78% benefit is not intended as a goal or a floor, but as a ceiling. It is also important to remember that the Hybrid Retirement Plan DB benefit represents only part of the retirement benefit. Hybrid Retirement Plan members also receive employee and employer contributions to the DC portion of their retirement benefit. Further, the 78% maximum for judges relates only to the DB portion of the plan and does not take into account any benefits received from the defined contribution or another deferred compensation account. (See page 26 or section Retirement Benefits beginning on page 23 for more detailed information on the DC portion of the plan.)

Historical Funded Status

Since 2014, pension reform and the creation of the Hybrid Retirement Plan along with generally favorable market conditions have resulted in the accelerated increase in JRS funded status. As a greater percentage of the active population continues to be covered by the Hybrid plan, given plan assumptions are met, this positive trend is expected to continue.

Other States' Judicial Retirement Benefits

All 50 states and the District of Columbia offer a judicial retirement plan. The National Association of State Retirement Administrators (NASRA) collected information related to public judicial retirement plans. From the available data, it appears that the JRS Hybrid Retirement Plan provides benefits that are comparable to other state plans, with lower member contribution rates and higher maximum benefit caps than most other plans, and with a comparable or better funded status than other open plans that include or are entirely a defined benefit plan.

From a plan design perspective, the data shows that 42 of the 51 plans provide newly elected or appointed judges a defined benefit plan like VRS Plan 1 and Plan 2. In addition to Virginia, Tennessee offers new judges a hybrid retirement plan that combines the defined benefit plan and defined contribution plan. Kentucky and Texas offer a cash balance plan to newly elected or appointed judges. Arizona and Michigan offer only a defined contribution plan. Pennsylvania, Florida, and Washington offer new judges the option to choose among a defined benefit plan, a defined contribution plan, or a hybrid plan, depending on the state. The data also demonstrates that member/employee contributions for JRS members are lower than most other states that also participate in Social Security.

It should be noted that, according to NASRA research, approximately 12 states offer hybrid plans that combine defined benefit and defined contribution plans to any of their members. Therefore, while only six judicial plans require judges to be in hybrid plan and three others provide the option to participate in a hybrid plan, more than half of the states that offer hybrid plan models provide the same type of plan for judicial members as general employees.

Most other judicial retirement plans also cap the retirement benefit. Of the 49 defined benefit or hybrid judicial retirement plans, 32 plans cap the retirement benefit as a percentage of final salary or average final salary. Of those, 23 plans have a lower cap than Virginia and 8 have a higher cap. In addition, four other states cap average final compensation; thereby effectively creating a cap on the benefit.

Benefit Increase Options

The Hybrid Retirement Plan was implemented by the General Assembly to reduce the cost and risk of the pension plan to the Commonwealth. However, if a policy decision is made to increase the retirement benefits for a subset of Hybrid Retirement Plan members, options exist to modify the Hybrid plan design to provide an income replacement ratio for judges similar to Plan 1 or Plan 2. This is particularly true if the member is maximizing the voluntary contributions to the DC portion of the Hybrid plan. There are four main suggested options for increasing judicial retirement benefits to produce the equivalent of a DB retirement benefit comparable to that of a Plan 2 member. These alternatives were developed to provide options similar to the general intent of recently introduced prior legislation, while also working within the framework of the existing Virginia Judicial Retirement System.

The four options are:

- Increase the employer match for the Defined Contribution Plan for JRS hybrid plan members to 100% of the employee voluntary contributions (up to 4% rather than up to 2.5%);

- Increase the Defined Benefit Plan multiplier to 1.1% prospectively for judges who are at least age 55 at the time of initial appointment or election (age at appointment mirrors prior legislation);
- Increase the Defined Benefit Plan service weighting prospectively to 2.75 for judges who are at least age 55 at the time of initial appointment or election (age at appointment mirrors prior legislation); and
- Move judges prospectively from the Hybrid Retirement Plan to Plan 2.

All options assume existing Hybrid Plan Defined Contribution funds remain where they are currently rather than moving to the Commonwealth of Virginia 457 Plan or the Cash Match Plan.

From a cost, investment risk, and administrative feasibility standpoint, the option to modify the employer matching contribution would result in the fewest impacts to the fund. The outcomes under the next two options are generally the same, with slightly different implementation costs. Compared to the employer match option, these options are more expensive and would also negatively impact the plan's funded status and unfunded liabilities. They ultimately put the risk and cost of the higher benefit solely on the employer. The remaining option, removing the hybrid benefit tier and reverting to Plan 2 provisions for prospective service would be the most expensive alternative.

Benefit Increase Options

	Increase employer match for the DC Plan to 100% of the actual employee match (up to 4%)	Increase the DB multiplier to 1.1% prospectively for judges who are at least age 55 at the time of initial appointment or election	Increase the DB plan service weighting to 2.75 prospectively for judges who are at least age 55 at the time of initial appointment or election	Move judges prospectively from the Hybrid Retirement Plan to Plan 2 (current DC Plan balances remain intact until allowable distribution)
Benefits	Approximate equivalent of a DB retirement benefit comparable to that of a Plan 2 member	Approximate equivalent of a DB retirement benefit comparable to that of a Plan 2 member	Approximate equivalent of a DB retirement benefit comparable to that of a Plan 2 member	Layered benefit equivalent to a DB retirement benefit comparable to or better than that of a Plan 2 member
Unfunded Liability	Zero impact since this is prospective only and relates to the DC portion of the plan	Zero impact since this is prospective only	Zero impact since this is prospective only	Will impact unfunded liability since it reverses some actions from pension reform
Employer Contribution Rates	Estimated employer contribution increase of approximately an additional \$1.2 million annually	Estimated increase starting at an additional \$750,000 annually growing to approximately an additional \$1.4 million over the next 10 years	Estimated increase starting at an additional \$750,000 annually growing to approximately an additional \$1.4 million over the next 10 years	Rate increase starting at +4.21% growing to +10.43% of covered payroll; Estimate to start at an additional \$4 million annually growing to approximately an additional \$18 million more than expected under current structure
Implementation Cost	Approximately \$10,000 in FY 2025 plus DOA implementation costs	Approximately \$201,000 in FY 2026	Approximately \$152,000 in FY 2026	Approximately \$310,000 in FY 2026
Delayed Effective Date	No	7/1/2026	7/1/2026	7/1/2026

Conclusion

The General Assembly implemented pension reform to ensure the stability and protection of future benefit payments, maintain a foundational DB portion of a retirement benefit, improve funded status, incorporate risk sharing between the employer and employee, enhance portability, and lower future employer costs. By design, even following pension reform and regardless of their age at appointment, judges typically receive a higher income replacement ratio in retirement than general VRS members. Through a plan design that includes weighted service and by taking full advantage of voluntary contributions and employer matching funds, hybrid retirement plan judges typically will be able to

accumulate assets for retirement savings in a manner not available to DB plan members, potentially receiving a higher income replacement ratio than Plan 1 or Plan 2 members.

Based on budget data, following the implementation of the Hybrid Retirement Plan in 2014 and the subsequent easing of budgetary constraints, the available data on judicial vacancies does not appear to show that there have been difficulties with filling allocated positions as a result of the implementation of the Hybrid Retirement Plan. When comparing to other states, of the 51 judicial retirement plans available, 12 states offer hybrid plans to any of their members with nine of those requiring or allowing judges to participate in a hybrid plan. Virginia's judicial hybrid retirement plan generally provides benefits similar to or better than other plans' DB or hybrid plans when considering the multiplier, service weighting, and benefit formula. If as a matter of policy, the General Assembly chooses to change the plan design, the report outlines the costs, impacts and outcomes under four different options.

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Impact of the Hybrid Retirement Plan on Judicial Appointments

Mandate

Chapter 2 of the 2024 Special Session I of the General Assembly Item 484 required that the Virginia Retirement System (VRS) examine the impacts of the Hybrid Retirement Plan (Hybrid or Hybrid plan) on judicial appointments, as well as options to modify the benefit structure. The language specifically requires that:

The Director of the Virginia Retirement System shall convene a workgroup including staff from the House Appropriations Committee, the Senate Finance and Appropriations Committee, and the office of the Executive Secretary of the Supreme Court to examine the impact the hybrid retirement system has had on judicial appointments. The review shall also include an analysis of the structure of other states' retirement benefits for judges, specifically looking at other states which provide a hybrid benefit, and options for modifying the current benefit structure for judges including an analysis of the project cost and impact on the unfunded liability of the potential changes. The workgroup shall provide a report to the General Assembly and Governor by December 1, 2024.

Although the workgroup was not tasked with soliciting systematic input from Virginia Judicial Retirement System (JRS) members, some feedback was received by the Office of the Executive Secretary of the Supreme Court. This feedback was considered when drafting this report.

Introduction

Following the Great Financial Crisis (GFC), Virginia, along with many public defined benefit (DB) plans across the country, instituted plan design changes in their employee pensions to reduce employer risk, generally lower the future cost of benefits, enhance portability, and improve overall plan health. The VRS DB plan benefit is based on a formula set forth in the Code of Virginia. Most of Virginia's public employees who participate in VRS, including judges, continue to receive a retirement benefit that includes a traditional DB plan or pension type plan combined with a defined contribution (DC) or 401(k)-style plan. Further, while some employees in other states and the private sector with DC plans may or may not receive any match of DC contributions made, Virginia public employees receive a guaranteed employer match for all required and a portion of voluntary contributions made to the Virginia Hybrid Plan DC component.

Due to service weighting and the increased multiplier available in the Judicial Retirement System (JRS), Virginia judges generally receive a benefit that generates a greater income replacement than Virginia public employees who are not in SPORS, VaLORS or are eligible for enhanced benefits. Further, a growing number of other state plans provide a hybrid DB/DC or DC only retirement plan for all employees, including judges. Virginia's JRS Hybrid Retirement Plan is similar to the other judicial hybrid retirement plans and more generous than several, including some DB plans. Additionally, service weighting is unique to the Virginia judicial plan, and no other states' judicial retirement plans include this type of benefit design. The Virginia JRS plan's weighting in conjunction with the multiplier and use of

an unreduced average final compensation in the benefit formula, provides a more enhanced benefit than some other states.

History of Virginia's Judicial Retirement System

The first judicial retirement benefit in Virginia was created in 1914 for the Justices of the Supreme Court of Appeals and provided a pension of two-thirds (approximately 66%) annual compensation at age 70 with ten years of service. Virginia's current Judicial Retirement System (JRS) was created in 1970. Administered by the Virginia Supplemental Retirement System (VSRS, which later became VRS) Board of Trustees, JRS was established in the Code of Virginia for the justices of the Virginia Supreme Court, judges of courts of record, members of the State Corporation Commission and Industrial Commission¹, judges of district courts other than substitute judges, and the Executive Secretary of the Supreme Court who assumed the position between December 1, 1975 and January 31, 1976. The Clerks of the Senate and the House of Delegates and the Assistant Attorneys General were included under the VSRS.

JRS replaced three existing judicial retirement systems:

- 1) a VRS system created in 1942 covering judges of courts of record as well as members of the State Corporation Commission and the Industrial Commission created in 1942 who would receive 75 percent of their salary after 12 years of service and attaining age 65;
- 2) a system created in 1954 outside of VRS governing judges of county courts not of record who could retire after 15 years of service and attaining age 70; and
- 3) a system created in 1952 outside of VRS covering the Clerk of the Senate and the Clerk of the House of Delegates who would receive 75 percent of their salary after 20 years of service and attaining age 70.²

The respective Clerks were moved under the state employee plan and the judges and members of the State Corporation Commission and Industrial Commission became members of JRS. This is colloquially known as Plan 1 now.

Pension Reform

In the wake of the 2008-2009 financial crisis, the General Assembly passed legislation creating Plan 2 for all members joining on or after July 1, 2010, including judges. The legislation was enacted with the goal to help ensure the health of the plans and preserve retirement benefits for government employees. The Commonwealth had a long history of not fully funding the actuarially determined employer contribution (ADEC) rates established and certified by the VRS Board of Trustees. Underfunding the ADEC, created a shortfall in funding of the statutorily established benefits structure. The practice and ramifications of not fully funding the ADEC became more evident in the wake of the GFC of 2008-2009. Following the GFC, the General Assembly determined that future employees would have to share in the longevity and investment risk of their retirement plans and that future benefits would be designed differently. The

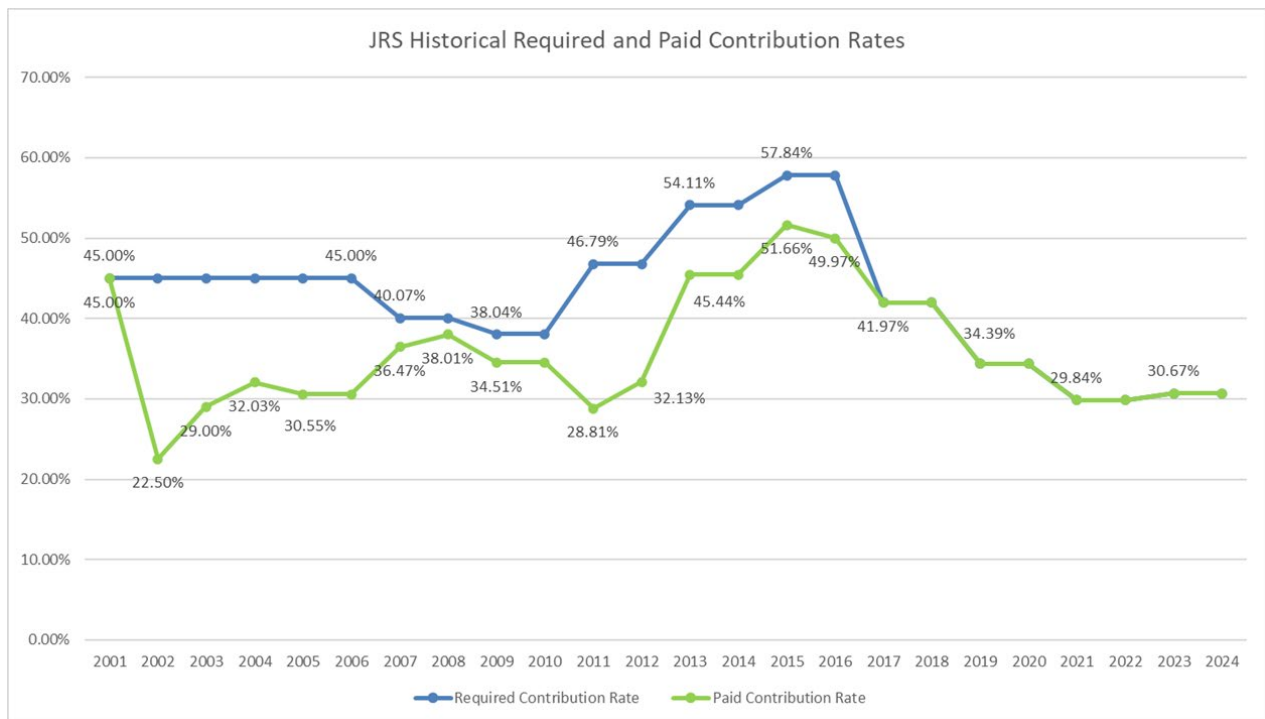
¹ The Industrial Commission was renamed the Virginia Workers' Compensation Commission in 1991. 1991 Va. Acts ch. 355.

² *Report of the Virginia Retirement Study Commission*, 1980 House Document 31, page 45.

new plan designs would not only require risk sharing, but also require additional effort by employees in the form of mandatory and voluntary defined contributions that would in turn be matched by employers based on a statutory schedule. In addition, other funding policy changes, such as implementing closed amortization schedules, were instituted following the GFC to further promote plan health.

Below is the historical cost of the JRS plan. Prior to pension reform, employer rates for the JRS plan exceeded 50% of covered payroll and were trending upward. Significantly, as shown in the chart below the employer contribution rates continued to increase as they were not funded at the required board certified actuarially determined level from 2002 to 2016. This underfunding, exacerbated by unfavorable market conditions, generated unfunded liabilities for the JRS system, and put additional upward pressure on contribution rates.

Chart 1. Historical Contribution Rates



In 2012, the General Assembly passed legislation creating the Hybrid Retirement Plan for all members (other than those in SPORS, VALORS, or with enhanced hazardous duty benefits) joining for the first time or rejoining following a refund on or after January 1, 2014, and for judges appointed or elected to an initial term on or after January 1, 2014, regardless of whether the new judge had prior VRS service, in accordance with §§ 51.1-304 and 51.1-306.1 of the *Code of Virginia*. The Hybrid Retirement plan is a combination of a DB plan and a DC plan. The Hybrid Retirement Plan’s design was intended to maintain a foundational DB portion of the plan, improve funded status and plan health, incorporate risk sharing between the employer and employee, enhance portability, and lower future employer costs. In addition, Hybrid Retirement Plan members who take full advantage of their voluntary contributions and employer matching funds will be able to accumulate assets for retirement savings in a manner not

available to DB plan participants. For DB plan participants, the benefit provided is based on a formula set forth in Code.

Plan Eligibility

To determine the correct VRS plan that covers a judge under the existing three plans, four factors must be considered:

- 1) The member's earliest VRS membership date.
- 2) The date the member became vested to a benefit.
- 3) Whether the member took a refund.
- 4) The date the member was elected or appointed to an original term as a judge.

JRS Plan 1

Judges are covered under Plan 1 if they have a VRS membership date before July 1, 2010, were vested before January 1, 2013, have not taken a refund, and were appointed or elected to an original term before January 1, 2014.

JRS Plan 2

Judges are covered under Plan 2 if they have a VRS membership date between July 1, 2010, and December 31, 2013, have not taken a refund, and were appointed or elected to an original term before January 1, 2014.

Additionally, judges are covered under Plan 2 if they have a VRS membership date before July 1, 2010, were not vested before January 1, 2013, have not taken a refund, and were appointed or elected to an original term before January 1, 2014.

JRS Hybrid Retirement Plan

Judges are covered under the Hybrid Retirement Plan if they are appointed or elected to an original term as a judge on or after January 1, 2014. It is important to note that this is the case even if the judge had prior service in any other VRS system and regardless of vesting status in the prior system. Note that if a judge is elected after July 1, 2014, and becomes a member of the Hybrid Retirement Plan, any prior service with VRS in either Plan 1 or Plan 2 prior to becoming a judge will be added to the member's benefit using the service and benefit multiplier under those prior plans.

Weighting Factor

Many new judges come to JRS with prior VRS service credit. Under JRS, judges receive one month of service credit multiplied by a weighting factor for each month they are employed in a JRS-covered position. A common misconception is that a judge's initial VRS membership date, which helps to determine the plan designation, also determines the weighting factor assigned to their JRS service. This is not the case, as the weighting factor depends on the date the judge was elected or appointed to an original term and, in some cases, their age at that date, as specified in § 51.1-303 of the *Code of Virginia*.

The weighting factor in JRS is applied to service credit earned by the judge for their service as a judge. This accelerates the pace at which a judge accrues service credit, since election or appointment to the

bench typically occurs later in an individual’s career and, thus, members have a shorter period of time for benefits to accrue in the DB component and balances to accumulate in the DC component.

The weighting factor applied to Virginia judges is a unique plan design feature intended to offset the effect of judges (generally) being older upon election or appointment to their position, by allowing judges to accumulate service credit more rapidly. The application of this feature produces a higher retirement benefit for judges without the use of a higher multiplier. For example, a Virginia judge in the Hybrid Retirement Plan who is appointed at age 55 and retires with 12 years of service can expect to receive a benefit equal to 30 percent of final average compensation for the DB portion of the plan, reflecting an effective retirement multiplier of 2.5 percent (12 years of service (YOS) x 2.5 weighted service factor = 30 (YOS); 30 YOS x 1% multiplier = 30% income replacement for DB portion of the plan). In contrast, as a general employee benefit does not include service weighting, the benefit would generate a 12 percent replacement of the member’s final average compensation, based on an effective retirement multiplier of 1.0 percent.

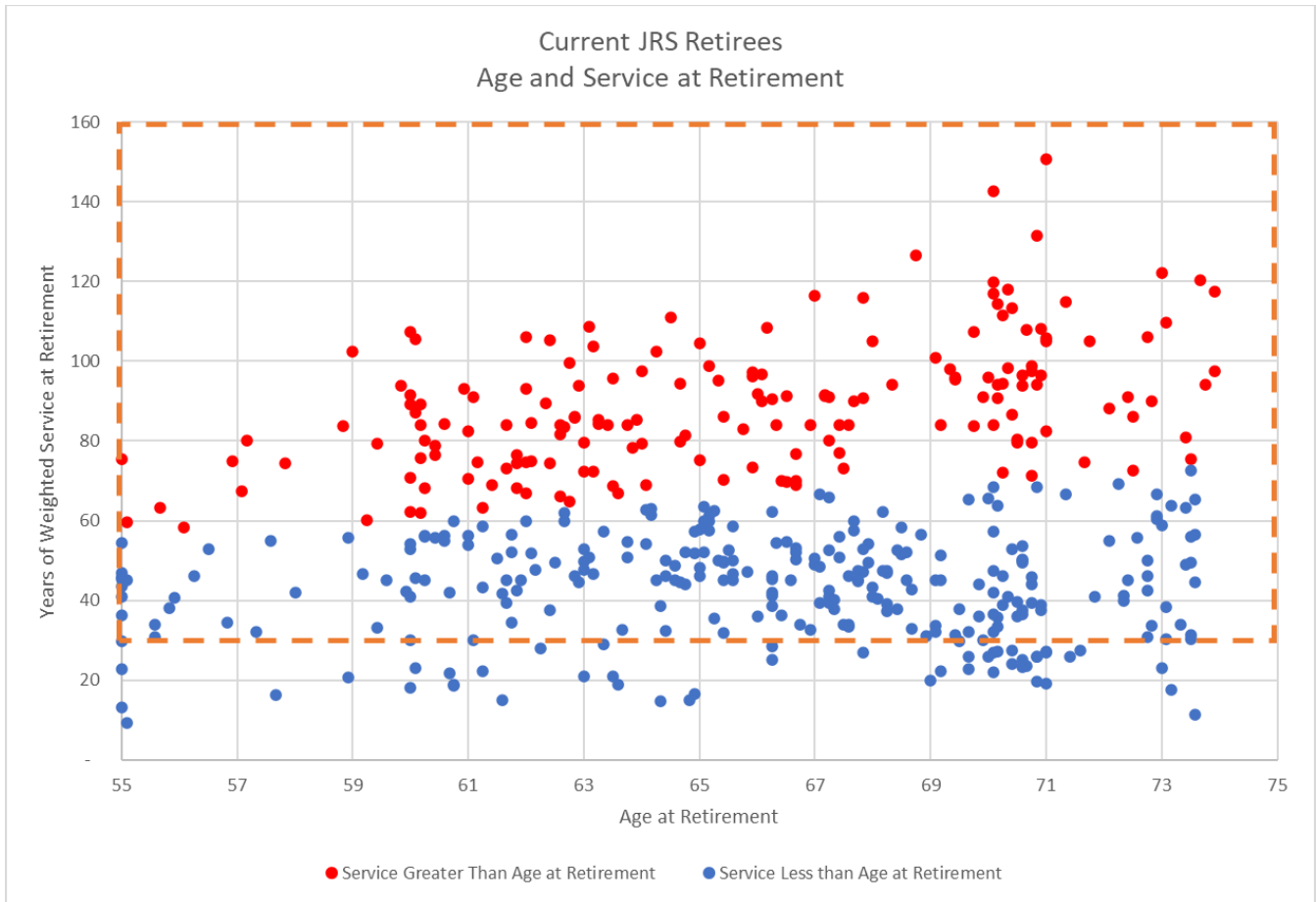
Table 1. JRS Service Weighting Example

Employee Type	Age at Hire	Age at Retirement	Years Worked	Service Weighting Factor	Retirement Service	Benefit Multiplier	Income Replacement
General Employee	55	67	12	None	12	1%	12%
Judge	55	67	12	2.5	30	1%	30%

* Note this income replacement is only from defined benefit component of the hybrid plan. Hybrid plan also includes income replacement from defined contribution savings.

The scatter chart below (Chart 2) plots the weighted service at retirement and age at retirement for the current JRS retirees. Under VRS Plan 1 for general employees, a full unreduced retirement required participants to be at least age 50 with at least thirty years of service or age 65 with five years of service. Following pension reform, unreduced retirement is based on the “Rule of 90” which is defined as age plus service must be greater than or equal to 90. The JRS retirees in the orange dashed box all exceeded 30 years of weighted service at retirement, with nearly 77% of JRS retirees exceeding 40 years of service. The members with a red data point had weighted service that exceeded their age, these represented approximately 38% of the current retirees. Thirty-seven retirees had weighted service in excess of 100 years of service. While this is the actual age and total weighted service, the actual DB benefit provided cannot exceed 78% of average final compensation.

Chart 2. Weighted Service at Retirement and Age at Retirement for Current JRS Retirees



As shown in the scatterplot in Chart 2, most JRS members retire with more than 40 years of service credit and over one-third have more than 70 years of weighted service credit at retirement. For example, one member retired at age 71 with 151 years of weighted service. Again, the Code requires that the ultimate benefit be capped at 78% of average final compensation.

To determine the correct service credit weighting factor for a judge, two components must be considered:

- 1) The date of original appointment or election to the bench; and
- 2) The judge's age at the time of the original appointment or election, if that original appointment occurs on or after July 1, 2010.

A judge appointed or elected to an original term between July 1, 1970 with the creation of JRS and before January 1, 1995, receives a weighting factor of 3.5.

A judge appointed or elected to an original term from January 1, 1995, through June 30, 2010, receives a weighting factor of 2.5.

A judge appointed or elected to an original term on or after July 1, 2010, receives a weighting factor based on his or her age on the date of the appointment or election:

- 2.5 if appointed or elected at age 55 or older;
- 2.0 if appointed or elected between ages 45 and 54; and
- 1.5 if appointed or elected before age 45.



Examples:

If a judge is appointed or elected to an original term commencing on July 1, 1994, the *Code of Virginia* dictates that the service credit weighting factor is 3.5 for that judge. This is the case, regardless of the judge's age at appointment or the amount of prior VRS service credit.

If a judge is appointed or elected to an original term commencing on July 1, 1996, the *Code of Virginia* dictates that the service credit weighting factor is 2.5 for that judge. This is the case, regardless of the judge's age at appointment or the amount of prior VRS service credit.

If a judge is appointed or elected to an original term commencing on or after July 1, 2010, and that judge was under age 45 at the time of appointment or election, the *Code of Virginia* dictates that the service credit weighting factor is 1.5 for that judge.

If a judge is appointed or elected to an original term commencing on or after July 1, 2010, and that judge was age 50 at the time of appointment or election, the *Code of Virginia* dictates that the service credit weighting factor is 2.0 for that judge.

A judge who is appointed or elected to an original term commencing on or after July 1, 2010, and who was age 55 or older at the time he or she was appointed to an original term, would have a service credit weighting factor of 2.5 months of service credit per month of JRS service.

In all examples, prior non-judicial service credit would not change the weighting factor.

Service Retirement Multiplier

The VRS membership date, as well as the date of original appointment or election, both determine the retirement multiplier that is applied in the benefit calculation for a judge.

A judge appointed or elected to an original term before January 1, 2013, receives a service retirement multiplier of 1.7%.

A judge appointed or elected to an original term between January 1, 2013, and December 31, 2013, receives a service retirement multiplier of 1.7% on any non-JRS service performed or purchased before the date of appointment or election and a service retirement multiplier of 1.65% on any JRS service earned, purchased or granted after the date of appointment or election.

A judge appointed or elected to an original term on or after January 1, 2014, receives a service retirement multiplier of 1.0% for JRS service beginning on the date of appointment or election to an original term. This is the case even if the judge had service in Plan 1 or Plan 2 at the time of his or her appointment. However, the service retirement multiplier earned on any VRS-covered service outside JRS is retained.



Examples:

Date of election: January 1, 1994

Age at election: any

VRS service at time of election: 20 years of service (YOS) – Plan 1

JRS service: 10 years of service/JRS weighted service (by 3.5): 35 years of service

JRS service multiplier: 1.7% for all service

$(20 \text{ YOS} + 35 \text{ YOS}) \times 1.7\% = 55 \text{ YOS} \times 1.7\% = 93.5\%$ replacement ratio

Date of election: January 1, 2012

Age at election: 55

VRS service at time of election: 20 years of service – Plan 1

JRS service: 10 years of service/JRS weighted service (by 2.5): 25 years of service

JRS service multiplier: 1.7% for all service

$(20 \text{ YOS} + 25 \text{ YOS}) \times 1.7\% = 45 \text{ YOS} \times 1.7\% = 76.5\%$ replacement ratio

Date of election: January 1, 2013

Age at election: 55

VRS service at time of election: 20 years of service – Plan 1

JRS service: 10 years of service/JRS weighted service (by 2.5): 25 years of service

JRS service multiplier: 1.65% for JRS service, 1.7% for prior non-JRS service

$(20 \text{ YOS} \times 1.7\%) + (25 \text{ YOS} \times 1.65\%) = 34\% + 41.25\% = 75.25\%$ replacement ratio

Date of election: January 1, 2014

Age at election: 55

VRS service at time of election: 20 years of service – Plan 1

JRS service: 10 years of service/JRS weighted service (by 2.5): 25 years of service

JRS service multiplier: 1.0% for JRS service, 1.7% for prior non-JRS service

$(20 \text{ YOS} \times 1.7\%) + (25 \text{ YOS} \times 1.0\%) = 34\% + 25\% = 59\%$ replacement ratio plus value of defined contribution plan

Age At Appointment

Judges are typically elected or appointed after acquiring other work experience, which generally means that judges are elected or appointed toward the middle or later in their legal career.

Judges are unique among state employees in that prior to their appointment they must have first embarked upon and been prominent in another career, the career of practicing law. Service on the bench, a Judge's second career, necessarily begins later in life than most other occupations. Attorneys are generally not considered good candidates for the bench until they have achieved the maturity and competence acquired only after many years of legal experience.³

A judge's prior legal experience can occur in a VRS-covered position, in governmental service not covered by VRS (e.g., federal service), in the private sector, or a combination of any or all of the three.

Historical data shows that the average age at appointment has consistently been around 44 or 45 years old since 1979.

Table 2. Average Age of Judges at Initial Appointment- 1979, 1982, 1985

Court	1979	1982	1985
Circuit Court	44.53 years old	44.32 years old	44.40 years old
General District Court	44.95 years old	45.65 years old	44.95 years old
Juvenile & Domestic Relations Court	43.23 years old	41.94 years old	42.97 years old

Source: Report of the Joint Subcommittee Established to Review the Judicial Retirement System, 1986.

<https://rga.lis.virginia.gov/Published/1986/HD16>

Table 3. Average Age of Judges at Initial Appointment- 2007

Age at Appointment	< 45 years old	45-54 years old	≥ 55 years old	Total
Number	242	174	52	468
Percentage	51.71%	37.18%	11.11%	100%

Source: VRS 2007 Actuarial Valuation Data, earliest available data

Table 4. Age at Appointment for Active Judges as of June 30, 2023

Age at appointment	Active Judges as of June 30, 2023			
	Count	% of Total	Average JRS Service	Average Other VRS Service
Less 45	169	37%	12.05	3.96
45-54	184	40%	8.60	5.78
55+	107	23%	6.14	7.43
Total	460	100%	9.29	5.50

³ Report of the Joint Subcommittee Established to Review the Judicial Retirement System, 1986 House Document 16, page 19.

Looking at the current JRS covered population, the data shows that the age at initial appointment distribution of those with prior VRS service is very similar to those without prior VRS service. Based on the current active JRS population, 47% of judges have prior VRS service.

Table 5. Age at Appointment for Active Judges With Prior VRS Service and Without Prior VRS Service as of June 30, 2023

Age at appointment	Active Judges with prior VRS service				Active Judges with no prior VRS service			
	Count	% of Total	Average JRS Service	Average Other VRS Service	Count	% of Total	Average JRS Service	Average Other VRS Service
Less 45	75	35%	11.24	8.93	94	38%	12.69	0.00
45-54	89	41%	8.14	11.95	95	39%	9.03	0.00
55+	51	24%	5.60	15.59	56	23%	6.63	0.00
Total	215	100%	8.62	11.76	245	100%	9.89	0.00

Mandatory Retirement

From July 1, 1970 to July 1, 1990, and again from July 1, 1992 to July 1, 2015, the JRS mandatory retirement age was 70. The mandatory retirement age for judges increased to age 73 for all Supreme Court justices and Court of Appeals judges and for all circuit court, general district court, and juvenile and domestic relations court judges appointed or elected to an original or subsequent term on or after July 1, 2015. Effective June 1, 2017, the mandatory retirement age increased to 73 for all judges regardless of appointment date. As shown in Chart 2 on page 18, 26 of the current JRS retirees retired at mandatory retirement age.

Impact of Hybrid Retirement Plan on Judicial Appointments

When considering accepting employment with the Commonwealth, a number of factors are considered, including but not limited to the type of work, salary, and employee benefits the role provides. Whether the hybrid plan has had impacts on judicial appointments is difficult to quantify due to data availability limitations, particularly with respect to those individuals who might have potentially considered the role. However, measuring the available data on judicial vacancies provides an illustration of the trends in vacancies. Below is a comparison of allocated bench positions versus filled bench positions both pre- and post-pension reform.

Table 6. Allocated Versus Filled Judicial Positions Since 2007

Fiscal Year	Allocated Positions				VRS Valuation Counts						
	11113 Circuit	11114 GDC	11115 JDR	Total	11113 Circuit	11114 GDC	11115 JDR	Total	Difference		
2007	157	128	117	402	157	127	116	400	2	Pre-Hybrid	
2008	157	128	117	402	150	125	114	389	13		
2009	157	128	117	402	156	125	116	397	5		
2010	157	128	117	402	150	121	113	384	18		
2011	157	128	117	402	142	117	113	372	30		
2012	157	128	117	402	139	111	107	357	45		
2013	158	128	117	403	137	106	114	357	46		
2014	171	124	134	429	136	113	113	362	67		Budgeting Issues
2015	171	124	134	429	146	114	117	377	52		
2016	171	124	134	429	156	114	122	392	37		
2017	171	124	134	429	157	119	121	397	32		
2018	170	130	135	435	158	119	116	393	42		
2019	170	130	135	435	169	129	136	434	1	Most Vacancies Filled	
2020	170	131	135	436	168	126	133	427	9		
2021	170	131	135	436	168	128	134	430	6		
2022	171	131	135	437	169	129	135	433	4		
2023	171	132	135	438	171	127	134	432	6		
2024	175	132	137	444	174	131	138	443	1		

Source: Appropriation Act information on judicial seats funded.

As the table above shows, it does not appear that there have been difficulties with filling allocated positions directly related to implementation of the Hybrid Retirement Plan. From 2007 to 2009, vacancies ranged from two seats to 13 seats. From 2010 through 2013, prior to the Hybrid Plan implementation, vacancies ranged from a low of 18 seats growing to a high of 46 seats. The first year of Hybrid Plan implementation coincided with budget constraints that caused an overall high in vacancies of 67 seats that steadily decreased to 32 vacant seats in 2017 and then spiked again to 42 vacant seats in 2018. However, when budget constraints eased in 2019, vacancies dropped significantly to one vacancy and did not exceed nine vacancies into 2024.

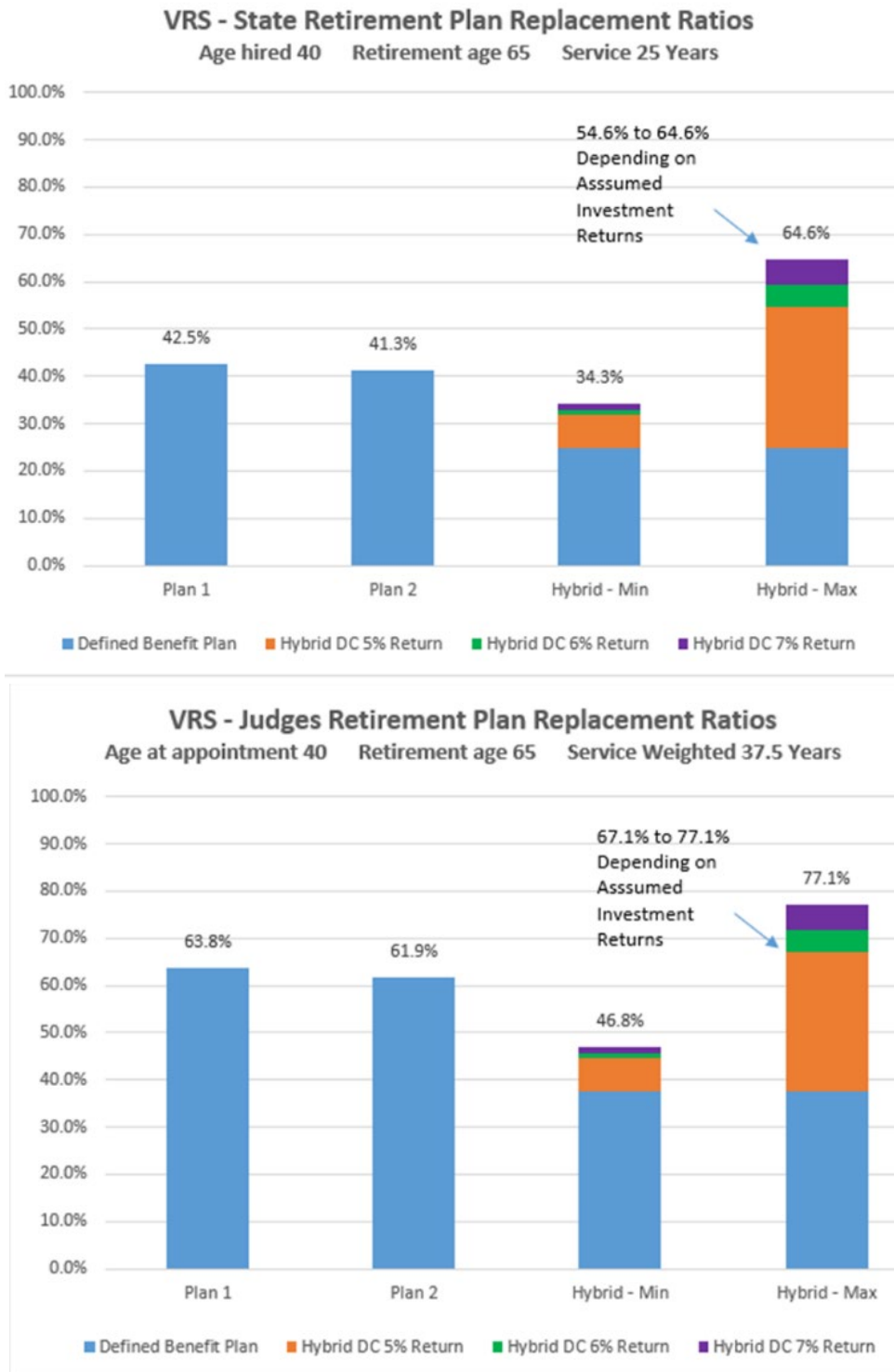
Retirement information, including Member Handbooks for all plans explaining Title 51.1 of the *Code of Virginia*, is available to the public on the VRS website at www.varetire.org. The VRS website is also linked on the Department of Human Resource Management website. Those considering judicial appointments have access to this information on demand. OES staff are generally available to review benefits, and VRS Counselors are also available to speak with prospective judges to review their potential benefits. However, neither OES nor VRS staff have any involvement in the recruitment of candidates for judicial vacancies. Those considering judicial appointments would need to seek out this information on their own initiative.

Retirement Benefits

While the benefit formulas for JRS members are the same as general employees, JRS members accrue service at an accelerated rate due to service weighting. What this means is that JRS retirement benefits

are higher than general employee retirement benefits because it does not take as long to accrue the same or an even higher level of benefits, as shown below.

Chart 3. Estimated Income Replacement Ratios for VRS and JRS Members With 25 Years of Service Credit



The DB plan replacement ratios above are based on average final compensation. Replacement ratios assume members are contributing the maximum 4% voluntary contribution and include both member mandatory and

voluntary contributions and employer matching contributions. Investment earnings on a member's DC balance are based on the member's selected investment portfolio and actual returns may vary.

Another feature unique to JRS is the cap on the maximum retirement allowance that a judge may receive. A maximum benefit has been a feature of judicial retirement since 1914 when the first retirement benefit for justices of the Supreme Court was established and fixed at two-thirds of the justice's salary.

The *Code of Virginia* requires that judges receive a maximum benefit of no more than 78% of average final compensation in most circumstances (75% from July 1, 1970 to July 1, 1998).⁴ This maximum benefit is designed to serve as a check on service weighting for judicial service.

The JRS benefit formula contains a built-in safeguard against judges able to accrue unusually high amounts of weighted years of service. The maximum retirement allowance, provided by statute, limits every judge's retirement benefit to no more than 75 percent of Average Final Compensation. This benefit limit is adequate assurance that all judges, regardless of their accrued judicial service, will not receive benefits which are excessive in relation to their AFC, as is possible under VSRS.⁵

While many judges in the Hybrid Retirement Plan, especially judges who had no prior VRS-covered service, may not receive the maximum retirement allowance upon retirement, as the report quoted above illustrates, the 78% benefit is not intended as a goal or a floor, but as a ceiling. Such a cap is not needed for VRS members in a plan without service weighting, as the structure of non-JRS plans do not result in members reaching similar levels of income replacement in retirement.

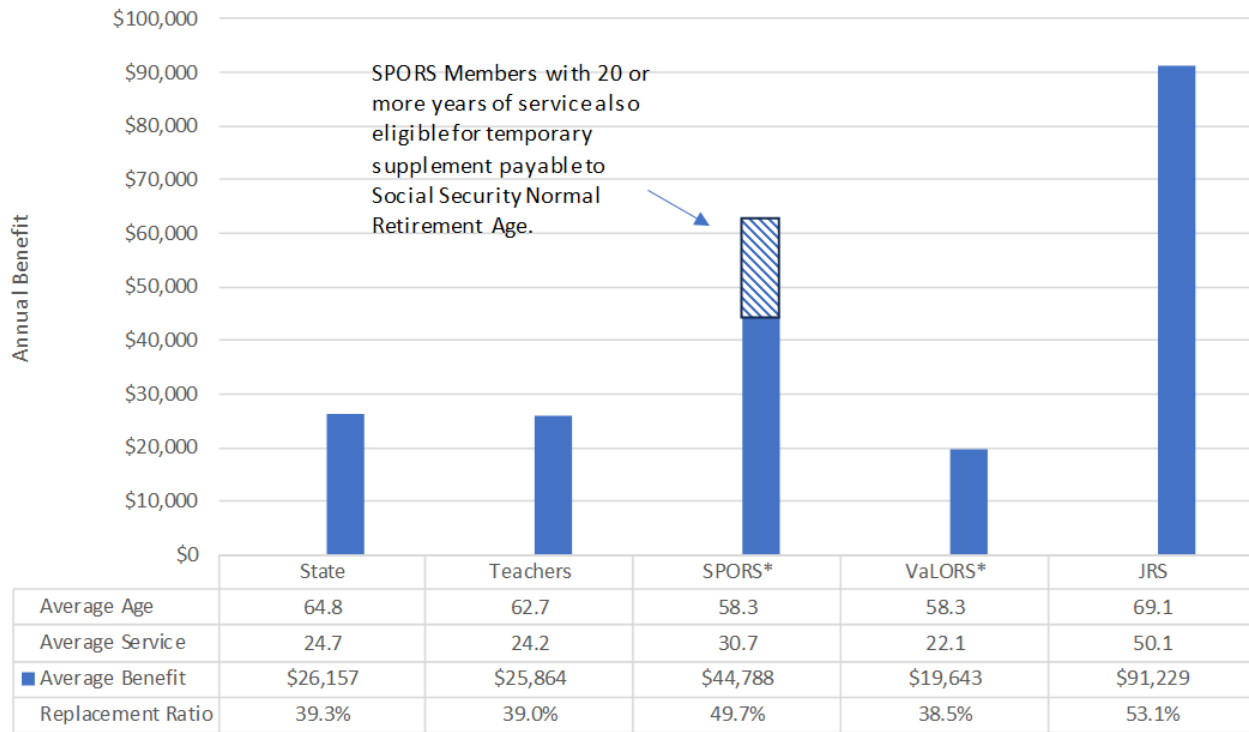
As an example, a VRS member in Plan 1 would require 46 years of service to reach a retirement benefit equal to 78% of average final salary, which is achievable for a judge in JRS Plan 1 or Plan 2 with a 2.5 service weighting in just 19 years.

The chart below compares the retirement benefits associated with retirees from different Virginia retirement plans in fiscal year 2023. The chart demonstrates that due to service weighting, the average JRS benefits exceed the average benefits paid to other VRS members.

⁴ The 78% cap does not apply to a judge if they leave the bench and return to a VRS-covered position for at least five years before retirement. Under such circumstances, the individual's retirement allowance cannot exceed 100% of the judge's average final compensation. Va. Code § 51.1-303(C).

⁵ *Report of the Joint Subcommittee Established to Review the Judicial Retirement System*, 1986 House Document 16, page 18.

Chart 4. Retirement Statistics for All VRS Retirees in Fiscal Year 2023



*SPORS and VaLORS plans cover members eligible for enhanced hazardous duty service, which includes a higher multiplier and may include a supplement. These plans also have lower age and service requirements for unreduced retirement.

Hybrid plan members also have a defined contribution balance that would not be included in the average benefits above.

Eighteen JRS retirees are included Chart 4. The total average benefit for 2023 JRS retirees was \$91,229. The 14 Plan 1 retirees had an average benefit of \$115,509. The two Plan 2 retirees had an average benefit of \$68,907. The two Hybrid Retirement Plan retirees had an average DB benefit of \$76,280 plus their DC account balance.

Compared to general VRS members, judges generally achieve higher income replacement ratios in retirement than other general employees regardless of their age at appointment. This applies to judges in the Hybrid Plan as well. Younger appointees who are enrolled in the Hybrid plan, those less than age 55⁶, are shown to have adequate time to accumulate a DC component benefit that, when combined with the DB component, potentially will exceed the DB provided under Plan 1 or Plan 2. This is represented by the first row in the chart below, which shows hybrid plan members taking full advantage of the voluntary contributions are likely to have higher replacement ratios that exceed even the 78% cap which would be applied to the DB component of the plan.

Members hired after age 55 have a shorter period of time for DC balances to accumulate, thereby providing slightly less value from the DC component. Options to modify the plan design for judges

⁶ The focus of prior legislation: SB 396 in 2024, SB 1369 in 2023, SB 382 in 2022, SB 606 in 2020, SB 1384 in 2019.

appointed on or after age 55 to provide them with replacement ratios similar to Plan 1 or Plan 2 are discussed later in this report. Judges with private or public sector prior experience usually have additional retirement benefits available to them from such other service and are not relying solely on JRS benefits.

Chart 5. Judicial Retirement Plan Income Replacement Ratios by Age at Appointment



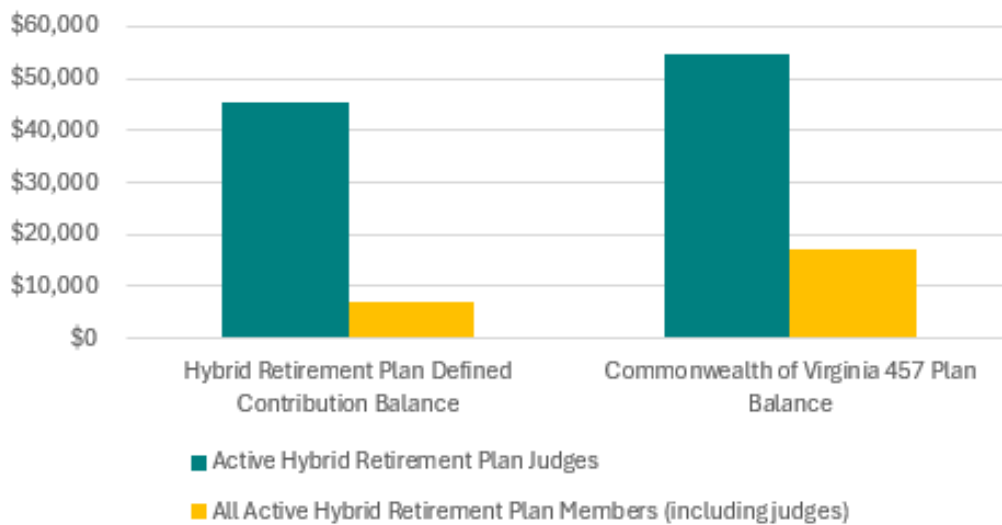
Retirement benefit calculated by age at appointment in five year intervals with 25 years of service or at mandatory retirement age, if less than 25 years from appointment.

JRS retirees average more DB funds in retirement than VRS general retirees with typically fewer average years of actual service.

It is also important to remember that the Hybrid Retirement Plan DB benefit represents only part of the retirement benefit. Hybrid plan members make employee contributions and receive employer matching contributions to the DC portion of their retirement benefit. Further, the 78% maximum for judges

relates only to the DB plan and does not take into account any benefits received from a DC plan. As of June 30, 2024, active judges in the hybrid plan have an average balance in the DC component of the hybrid plan, which includes the Hybrid 401(a) Cash Match Plan and the Hybrid 457 Deferred Compensation Plan, of \$45,431 and an average balance of \$54,880 in the COV 457 Plan. As a point of comparison, the average balance in the DC component of the hybrid plan for all active members is \$6,995. Active hybrid plan members that also participate in the COV 457 Plan have an average balance in that plan of \$17,262. Balances also include funds that members may have rolled into the plan from an external plan, like an Individual Retirement Account or a former employer’s plan.

Table 7. Average Balances in the Hybrid Retirement Plan Defined Contribution Component Accounts



Almost 80% of active JRS Hybrid plan members and 29% of active VRS Hybrid plan members are making the maximum voluntary contributions.

Plan 1 and Plan 2 members contribute 5% of salary to the DB plan, whereas Hybrid plan members contribute 4% of salary to the DB plan and a mandatory 1% to the DC plan with potentially another 0.5% to 4% in voluntary contributions to the DC plan. While some may have additional retirement benefits from pre-judicial service, JRS members are more likely than general employees to contribute the maximum voluntary contributions, 4%, to the DC plan.

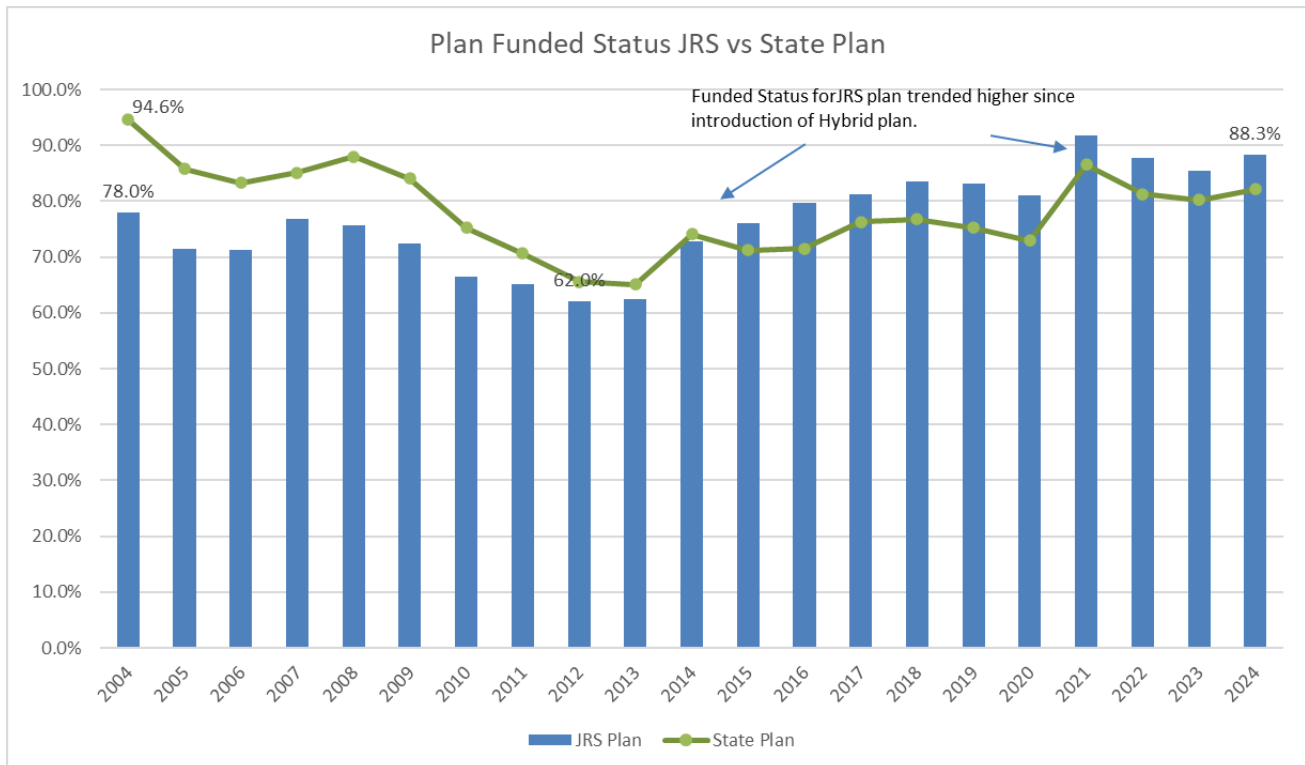
- Of the 307 active judges in the Hybrid Retirement Plan as of June 30, 2024, only 24 (less than 8%) are making only the mandatory contribution to the DC plan compared to 30% of VRS Hybrid Plan members.
- In contrast, 245 (almost 80%) of JRS Hybrid Plan members are making the maximum 4% voluntary contributions compared to 29% of VRS Hybrid Plan members, with the remaining 38 (just over 12%) of JRS Hybrid Plan members making between 0.5% and 3% voluntary contributions compared to 41% of VRS Hybrid Plan members.

- Additionally, 207 of the 307 (just over 67%) JRS Hybrid Plan members are also participating in the Commonwealth of Virginia 457 with either pre-tax or Roth deferrals compared to 11% of VRS Hybrid Plan members.

Historical Funded Status

To understand the impact of pension reform on the plan funded status, below is a comparison of the VRS State plan versus JRS. The accelerated increase in JRS funded status since 2014 is due not only to market conditions and fully funding ADEC, but also to a greater percentage of the active population being covered by the Hybrid plan, which reduced employer costs.

Chart 6. Funded Status of the JRS Plan Versus the State Plan



Provided that plan assumptions are met, this positive trend is expected to continue. To illustrate, in 2004 the JRS funded status was 78.0% and after a brief decline and recovery from 2005-2007, steadily decreased to a low of 62.0% in 2012 and 2013. Beginning in 2014 with the implementation of the Hybrid Retirement Plan along with favorable market conditions and receipt of actuarially determined required employer contributions, the funded status has increased to its current 88.3%.

Other States' Judicial Retirement Plans

All 50 states and the District of Columbia offer a judicial retirement plan. The National Association of State Retirement Administrators (NASRA) collected information related to public judicial retirement plans.⁷ The NASRA narrative is included as Appendix A. The data shows that the vast majority provide

⁷ 2024, NASRA Judicial Benefits Analysis. <https://www.nasra.org/content.asp?admin=Y&contentid=266>

newly elected or appointed judges a DB plan like VRS Plan 1 and Plan 2. In addition to Virginia, Tennessee offers new judges a hybrid retirement plan that combines the DB plan and DC plan. Kentucky and Texas offer a cash balance plan to newly elected or appointed judges. Arizona and Michigan offer only a DC plan. Three states, Pennsylvania, Florida, and Washington, offer new judges the option to choose from among a DB plan, a DC plan, or a hybrid plan, depending on the state.

It should be noted that according to NASRA research, 12 states offer hybrid plans that combine DB and DC plans to any of their members. While only six judicial plans require judges to be in hybrid plans and three others provide the option to participate in a hybrid plan, more than half of the states that offer hybrid plan models provide the same type of plan for judicial members as general employees⁸.

It should also be noted that the nationwide median employee or member contribution rate for judges who also participate in Social Security is 6.0 percent, which is slightly below the 6.10 percent median rate for all (non public-safety) public employees who also participate in Social Security. VRS is in the lower percentile as it relates to member contributions⁹.

Other Plans’ Benefit Caps

Most other states’ judicial retirement plans also cap the retirement benefit. Of the 49 DB or hybrid judicial retirement plans in the NASRA dataset, 32 plans cap the retirement benefit as a percentage of final salary or average final salary.

Table 8. Retirement Benefit Caps

Cap	37.5%	50%	60%	65%	70%	74.66%	75%	78%	80%	85%	90%	100%	Other
Plans	1	1	2	2	4	1	12	1*	2	1	1	13	4

*Virginia

Source: NASRA Judicial Benefits Analysis

As shown in the table, 28 plans cap the retirement benefit at less than 100% of average final compensation or final salary, including Virginia. Only 15 DB plans and two hybrid plans do not cap the retirement benefit. However, the IRS caps defined benefit plans to 100% of average final compensation. However, as shown in the table, four of these plans without a cap (as well as one with a high cap) use a fraction of average final compensation (50% to 75%, 66.67%, 71.3% or 80%) when calculating the retirement benefit.¹⁰ By using a set percentage applied to average final compensation, effectively these states are applying a cap on the benefit. In contrast, Virginia uses average final compensation, a multiplier, and service weighting in its formula and then applies a cap.

Other Plans’ Total Pension Liabilities

The following table shows the judicial plan total pension liability in 2021 according to data from the Pew Charitable Trusts for the eight other states above that have a judicial retirement plan that is currently

⁸ 2024, NASRA Judicial Benefits Analysis. <https://www.nasra.org/content.asp?admin=Y&contentid=266>

⁹ 2024, NASRA Judicial Benefits Analysis. <https://www.nasra.org/content.asp?admin=Y&contentid=266>

¹⁰ 2024, NASRA Judicial Benefits Analysis. <https://www.nasra.org/content.asp?admin=Y&contentid=266>

some form of DC plan (a hybrid plan, a DC plan, or a cash balance plan) and had or have some form of DB plan (some DB plans listed are now closed).

Table 9. Judicial Plan Total Pension Liability

Plan	Liability (Total Pension Liability- Ending)	Funded Ratio	Funding Rank Compared to Other Judicial Plans
Arizona	Not listed*		
Florida	Not listed*		
Kentucky Judicial Retirement System**	\$379,400,000	118.19%	8
Michigan Judicial Retirement System***	\$264,089,000	113.58%	11
Pennsylvania	Not listed*		
Tennessee	Not listed*		
Texas Judicial Retirement System – Plan Two+	\$728,608,000	80.31%	24
Virginia JRS	\$746,502,000	90.17%	22
Washington Judicial Retirement Fund++	\$1,404,000	91.24%	20
Washington Judicial Retirement System++	\$70,493,000	12.23%	34

Source: Pew Charitable Trusts, 2021 Funding Gap Report dataset

*Data for this state was not included in the Pew dataset. Arizona has a DC plan only, Florida has a default DC plan and an elective DB plan, Pennsylvania has a mandatory hybrid plan and elective DC plan, and Tennessee has a mandatory hybrid plan.

**Kentucky currently has a cash balance plan for judges.

***Michigan currently has a DC plan for judges.

+Texas currently has a cash balance plan for judges.

++As listed by Pew Charitable Trusts. Washington currently has a default DB plan (Public Employees' Retirement System [PERS] Plan 2) and an elective hybrid plan (PERS Plan 3). The Judicial Benefit Multiplier Program is required for all judges who became members of PERS on or after January 1, 2007. The Judicial Retirement System (a DB plan), the Judges' Retirement Fund (a DB plan), and the Judicial Retirement Account (a DC plan) are closed.

Benefit Increase Options

Following the GFC, the Hybrid Retirement Plan was implemented by the General Assembly to reduce the future plan costs and the investment and longevity risk of the pension plan to the Commonwealth. In addition, the Hybrid retirement Plan would offer participants additional portability. However, if the policy decision is made to increase the retirement benefits for a subset of Hybrid Retirement Plan members, options exist to modify the Hybrid plan design to provide a higher income replacement ratio for judges. This is particularly true if the member is maximizing the voluntary contributions to the DC portion of the Hybrid plan. If the General Assembly determines that changes are necessary, presented here are four potential options for consideration to increase judicial retirement benefits while working within the framework of the existing Virginia Judicial Retirement System. While these four options are not the only possible modifications that may be considered, they are expected to produce the

equivalent of a DB retirement benefit comparable to that of a Plan 2 member, similar to the apparent intent of prior introduced legislation. The four options are:

- Increase the employer match for the Defined Contribution Plan for JRS hybrid retirement plan members to 100% of the employee voluntary contributions (up to 4% rather than up to 2.5%);
- Increase the Defined Benefit Plan multiplier to 1.1% prospectively for judges who are at least age 55 at the time of initial appointment or election*;
- Increase the Defined Benefit Plan service weighting to 2.75 prospectively for judges who are at least age 55 at the time of initial appointment or election*; and
- Move judges prospectively from the Hybrid Retirement Plan to Plan 2.

*Options considered for judges at least age 55 at time of initial appointment or election to conform with legislation introduced in prior legislative years: Senate Bill (SB) 396 in 2024, SB 1369 in 2023, SB 382 in 2022, SB 606 in 2020, SB 1384 in 2019.

All options assume existing Hybrid Plan DC funds remain where they are currently rather than moving to the Commonwealth of Virginia 457 Plan or the Cash Match Plan.

From a cost, investment risk, and administrative feasibility standpoint, the option to modify the employer matching contribution would result in the fewest impacts to the fund and plan administration. The outcomes under the next two options are generally the same, with slightly different implementation costs. Compared to the employer match option, these options are more expensive and would also negatively impact the plan's funded status and unfunded liabilities. They ultimately put the risk and cost of the higher benefit solely on the employer. The remaining option, removing the hybrid benefit tier and reverting to Plan 2 provisions for prospective service, would be the most expensive alternative. These options are described in detail below, and summarized in Appendix B.

Before considering any of these four options, it is important to note that JRS Hybrid Retirement Plan participants generally have adequate time to accumulate a DC component that, along with the DB portion of the Hybrid Retirement Plan, potentially provides a combined benefit that exceeds Plan 1 or Plan 2 income replacement ratios, assuming participants make the maximum voluntary contribution to the DC portion of the Hybrid Plan. That stated, to generate an analogous income replacement ratio to Plan 1 and Plan 2, for any Hybrid Retirement Plan member, including judges, the member must make more employee contributions to the plans than their Plan 1 and Plan 2 counterparts. For Plan 1 and Plan 2 members, the employee contribution is 5%. Hybrid Retirement Plan members must make a mandatory 4% employee contribution to the DB portion of the plan and a 1% mandatory contribution to the DC. However, they'd also need to make additional voluntary contributions, up to 4%, to the DC portion of the plan, to generate the analogous income replacement ratio. As judges are generally more highly compensated than other VRS members, they are more likely to invest the 4% more in additional contributions to take full advantage of the employer match and generate a larger pension benefit.

Additional discussion regarding each of the four options follows.

Increase the Employer Match for the Defined Contribution Plan

Perhaps the simplest and most cost-effective option to increase judicial retirement benefits is to increase the employer match on member voluntary contributions to the DC Plan (DCP) to 100% of allowable contributions. Currently, Hybrid Retirement Plan members are required to contribute 1% of salary and may voluntarily elect to contribute an additional 0.5%, up to 4%, of salary. Employers are required to match employee voluntary contributions up to a maximum of 2.5% total.

Table 10. Current Hybrid Retirement Plan Defined Contributions Component Contribution Matching

Employee Mandatory Contributions	Employer Mandatory Contributions	Employee Voluntary Contributions	Current Employer Matching Contributions
1.00%	1.00%	0.00%	0.00%
		0.50%	0.50%
		1.00%	1.00%
		1.50%	1.25%
		2.00%	1.50%
		2.50%	1.75%
		3.00%	2.00%
		3.50%	2.25%
		4.00%	2.50%

Source: <https://www.varetirement.org/hybrid/plan-info/voluntary-contributions.html>

Hybrid Retirement Plan members can also save additional funds for retirement in a supplemental plan, although VRS recommends maximizing voluntary contributions to the Hybrid 457 Plan to take advantage of the employer match before saving additional funds elsewhere. Total contributions cannot exceed Internal Revenue Service (IRS) annual contribution limits¹¹.

This option would allow Hybrid Plan members to voluntarily contribute up to 4% of salary and receive an employer match equal to the full amount of the voluntary contribution.

Table 11. Potential Hybrid Retirement Plan Defined Contributions Component Contribution Matching

Employee Mandatory Contributions	Employer Mandatory Contributions	Employee Voluntary Contributions	Potential Employer Matching Contributions
1.00%	1.00%	0.00%	0.00%
		0.50%	0.50%
		1.00%	1.00%
		1.50%	1.50%
		2.00%	2.00%
		2.50%	2.50%
		3.00%	3.00%
		3.50%	3.50%
		4.00%	4.00%

¹¹ [Retirement Topics 457b Contribution Limits | Internal Revenue Service](#)

Implementation, Unfunded Liability, and Employer Contribution Rates

Making changes to the DC component of the Hybrid Retirement Plan will be the simplest option to implement and cost the least, both in terms of impact to the funded status of the plan and implementation.

Since this option changes only employer matching contributions to the Hybrid 457 Plan to 100% of the maximum 4% employee voluntary contributions, there would be no impact to the unfunded liability. Employer contribution rates would increase to account for the additional required matching contributions.

As of March 30, 2024, there were 288 active judges in the Hybrid Retirement Plan. Of those, 238, or 83% of the total Hybrid Plan judges, were making the maximum 4.00% voluntary contribution. Therefore, employer matching of voluntary contributions would increase from a maximum of 2.50% of covered payroll for approximately 83% of Hybrid Plan judges to 4.00% of covered payroll for approximately 83% of Hybrid Plan judges plus the 100% match for the remaining 17% of judges in the Hybrid Plan. If 100% of all Hybrid Plan judges were to contribute the maximum 4% voluntary contribution, the estimated increase in annual cost associated with matching contributions would be approximately \$1.2 million. VRS will require an appropriation for implementation of this option. Implementation will involve changes to the VRS website and VRS materials such as the JRS Handbook and the Employer Manual, as well as changes to employer training. VRS' record keeper's publications would also be impacted. VRS expects minimal system changes to create new options in our planning tools for judges since most implementation will be related to employer payroll changes. VRS estimates that VRS implementation will cost approximately \$10,000, with no ongoing costs. Employers and the Department of Accounts will need to make adjustments to their payroll rules for judges (100% match of voluntary contributions) that will be different from payroll rules for other Hybrid Retirement Plan employees (partial match of voluntary contributions). Typically, creating a second set of rules that only applies to a portion of the population (Hybrid Plan judges) will be more expensive than a single set of rules that apply to all Hybrid Plan members. While not completely a tangible cost, two sets of rules may also cause some confusion if this option is implemented for judges only, rather than for all Hybrid Plan members. This type of confusion can lead to employer errors, creating additional administrative costs for both VRS and the employers. That stated, the JRS plan already has certain distinctive elements i.e., weighted service, so this unique matching structure for a relatively small group of specific employees can be managed.

VRS expects that this option could be implemented by VRS by July 1; the Office of the Executive Secretary of the Supreme Court indicates no additional time would be needed for implementation of this option, however, Department of Accounts, and employers may need additional time for budgeting and implementation.

Increase the Defined Benefit Plan Multiplier

Another option is to increase the DB multiplier from 1.0% to 1.1% for new prospective judges in the Hybrid Retirement Plan who are at least age 55 at the time of initial appointment or election. Currently, all judges in the JRS Hybrid Plan have a 1.0% multiplier on judicial service. This would generally provide a DB plan benefit for judges similar to Plan 2.

The DB component of a retired judge’s benefit is based on either a) the multiplier times the retiree’s average final compensation multiplied by the total years of weighted service and other service credit at retirement, or b) 78% of average final compensation, whichever is less.

Table 12. Current Hybrid Retirement Plan Multiplier

Defined Benefit Component	Defined Contribution Component
1.0% for JRS service beginning on the date of appointment or election to an original term (if a judge has prior service in VRS Plan 1 or 2, they retain the applicable multiplier for that service).	Not applicable

This option would provide new judges who are at least age 55 at the time of initial appointment with a higher multiplier, which increases the final retirement benefit to be approximately the same as Plan 2.

Table 13. Potential Hybrid Retirement Plan Multiplier

Age at Initial Appointment	Defined Benefit Component	Defined Contribution Component
<i>Under age 55</i>	1.0% for JRS service beginning on the date of appointment or election to an original term (if a judge has prior service in VRS Plan 1 or 2, they retain the applicable multiplier for that service).	Not applicable
<i>Age 55 or older</i>	<i>1.1% for JRS service beginning on the date of appointment or election to an original term (if a judge has prior service in VRS Plan 1 or 2, they retain the applicable multiplier for that service).</i>	Not applicable

Implementation, Unfunded Liability, and Employer Contribution Rates

Since this has been proposed and costed as a prospective change for future accruals, there would not be an initial impact to unfunded liabilities. Employer contribution rates however would increase for current and future eligible Hybrid Plan judges who are at least age 55 at the time of election or appointment. The estimated annual cost to increase the multiplier for prospective Hybrid Plan judges appointed to an initial term at age 55 or older would initially increase rates by approximately 0.70% of covered payroll and increase over time to approximately 1.0% of covered payroll as more members are added to this classification. Initial increases in annual funding would be approximately \$750,000 and would increase to about \$1.4 million over the next 10 years.

VRS will require an appropriation for implementation of this option. Implementation will involve changes to the VRS website and VRS materials such as the JRS Handbook and the Employer Manual, as well as changes to employer training. VRS anticipates system changes to create the new multiplier for eligible judges while maintaining the existing multiplier for other judges. VRS estimates that

implementation will cost approximately \$201,000, with no ongoing costs. Employers will not need to make additional programming changes. However, this option will also create a different rule for specific judges that employers will need to be able to discuss when counseling judges on retirement.

VRS would request a delayed implementation of at least one full fiscal year to program, test and deploy the necessary system changes.

Increase the Service Weighting

Another option is to increase the service weighting from 2.50 months for every one month of service to 2.75 months for every one month of service for new prospective judges in the Hybrid Retirement Plan who are at least age 55 at the time of initial appointment or election. This would generally provide a DB plan benefit for judges similar to Plan 2 and similar to the increased multiplier option. Currently, all judges in the JRS Hybrid Plan who were appointed or elected to an initial term at age 55 or older receive a service weighting of 2.50, meaning that they receive 2.50 months of service credit for every one month of judicial time served.

The DB component of a retired judge’s benefit is based on either a) the multiplier times the retiree’s average final compensation multiplied by the total years of weighted service and other service credit at retirement, or b) 78% of average final compensation, whichever is less.

Table 14. Current Hybrid Retirement Plan Service Weighting

Age at Initial Appointment	Service Weighting	Time needed to earn 1 year of JRS service credit	Actual time to reach 20 years of JRS service credit
< 45 years old	1.5	8 months	13.3 years
At least 45 but < 55 years old	2.0	6 months	10.0 years
At least 55 years old	2.5	4.8 months	8 years

Note: The JRS Hybrid Retirement Plan Normal Retirement Age for an unreduced benefit is age 65 with at least five years of service credit or age 60 with 30 years of service credit. The JRS Hybrid Retirement Plan Normal Retirement Age for a reduced benefit is as early as age 55 with at least five years of service credit.

Currently, a Hybrid Plan judge appointed for the first time at age 55 or older would earn one year of service after working 4.8 months. A judge in the Hybrid Plan appointed at age 44 (and with no other VRS service) has earned 20 years of JRS service credit by age 57.3¹², after 13.3 years of actual service. A judge in the Hybrid Plan appointed at age 55 (and with no other VRS service) has earned 20 years of JRS service credit by age 63 after 8 years of actual service.

Increasing the service weighting for prospective Hybrid Plan judges appointed to an initial term at age 55 would allow those judges to earn judicial service at a faster rate. This allows them to retire sooner at the benefit amount the judge is targeting or increases the final retirement benefit if the judge retires later.

¹² Internal Revenue Service Early Distribution rules apply. A JRS member who retires prior to age 59 ½ would still be subject to potential tax penalties for taking an early distribution.

Table 15. Potential Hybrid Retirement Plan Service Weighting

Age at Initial Appointment	Service Weighting	Time to earn 1 year of service	Actual time to reach 20 years of JRS service credit
< 45 years old	1.5	8 months	13.3 years
At least 45 but < 55 years old	2.0	6 months	10.0 years
At least 55 years old prior	2.75	4.36 months	7.3 years

This option would allow a judge in the Hybrid Plan appointed at age 55 (and with no other VRS service) to earn 20 years of JRS service credit by age 62.3.

Implementation, Unfunded Liability, and Employer Contribution Rates

The cost impacts would mirror those from increasing the multiplier to 1.1%, initially increasing rates by approximately 0.70% of covered payroll and increase over time to approximately 1.0% of covered payroll as more members are added to this classification. Initial increases in funding would be approximately \$750,000 and would increase to about \$1.4 million over the next 10 years.

VRS will require an appropriation for implementation of this option. Implementation will involve changes to the VRS website and VRS materials such as the JRS Handbook and the Employer Manual, as well as changes to employer training. VRS anticipates system changes to create the new service weighting for eligible judges while maintaining the existing service weighting for other judges. VRS estimates that implementation will cost approximately \$152,000, with no ongoing costs. Employers will not need to make additional programming changes. However, this option will also create a different rule for specific judges that employers will need to be able to discuss when counseling judges on retirement.

VRS would request a delayed implementation of at least one full fiscal year in order to design, test and implement necessary system changes.

[Move Judges Prospectively from the Hybrid Retirement Plan to Plan 2](#)

The fourth option is to change the benefit plan for prospective service for judges appointed on or after January 1, 2014 to Plan 2 level benefits. Contributions currently in the Hybrid Retirement Plan would not be moved, rather the benefits would be layered, similar to how a judge with prior VRS service currently has their benefit calculated.

Judges currently in the Hybrid Plan would receive prospective service earned after the implementation date in Plan 2 rather than Hybrid Plan, and at retirement would have a layered benefit consisting of prior VRS service (if any), JRS Hybrid Plan service between January 1, 2014 and the new implementation date (if any), and JRS Plan 2 service from the implementation date forward, plus any DC funds they contributed as part of the VRS or JRS Hybrid Plan (that remain in the Hybrid Plan DC component until separation from service), and any funds contributed to the Commonwealth of Virginia 457 or Cash Match Plans.

Implementation, Unfunded Liability, and Employer Contribution Rates

The DC accounts for current hybrid plan members would remain intact and the DC funds would still only be eligible for distribution once the member has reached normal distribution requirements. Employer contribution rates would increase initially by approximately 4.21% of JRS covered payroll, which would require approximately \$4,000,000 annually in additional funding. The cost associated with moving hybrid eligible members to Plan 2 is expected to grow over time to approximately 10.43% higher than today's rate. Taking into account payroll growth this would result in an annual cost increase of approximately \$18,000,000 higher than would be expected under the current Hybrid Plan benefit structure.

VRS will require an appropriation for implementation of this option to effectively revert JRS members to Plan 2 benefits. Implementation will involve changes to the VRS website and VRS materials such as the JRS Handbook and the Employer Manual, as well as changes to employer training. VRS anticipates substantial system changes to close the JRS Hybrid Plan to new judges while retaining the service history. VRS estimates that implementation will cost approximately \$310,000, with no ongoing costs. Employers will not need to make additional programming changes.

VRS would request a delayed implementation of at least one full fiscal year in order to design, test and implement necessary system changes.

Conclusion

The General Assembly implemented pension reform to ensure the stability and protection of future benefit payments, maintain a foundational DB portion of a retirement benefit, improve funded status, incorporate risk sharing between the employer and employee, enhance portability, and lower future employer costs. Prior to reforms to the plan, employer contribution rates for the JRS plan were steadily increasing and the required board certified ADEC was not being fully funded. By design, even following pension reform and regardless of their age at appointment, judges typically receive a higher income replacement ratio in retirement than general VRS members. By taking full advantage of voluntary contributions and employer matching funds, judges typically will be able to accumulate assets for retirement savings in a manner not available to DB plan holders, potentially receiving a higher income replacement ratio than Plan 1 or Plan 2 members. Further, since judges are typically elected or appointed after acquiring other work experience, they generally may also have other retirement benefits from which to draw funds.

Although data is not available to show whether potential candidates chose not to pursue consideration for judgeships as a result of the salary, retirement, and benefits package offered, budget data indicate that following implementation of the Hybrid plan in 2014 and the subsequent easing of budgetary constraints, vacancies dropped from a high of 67 vacancies in 2014 to one vacancy in 2019 and have not exceeded nine vacancies (in 2020 during COVID) through 2024.

All 50 states and the District of Columbia offer a judicial retirement plan, including 49 DB or hybrid plans for judges. Hybrid plans are offered by 12 states to any of their members; six plans, including Virginia, require judges to participate in a hybrid plan, and three more offer judges the option to participate in a

hybrid plan. Of the 49 plans, only 13 or 26% of DB and hybrid plans do not limit the retirement benefit below the IRS DB plan maximum limit of 100% of average final compensation, either by using a percentage of the average final compensation in the benefit calculation or by capping the retirement benefit. Whether Plan 1, Plan 2, or the Hybrid plan, Virginia judicial DB benefits by statute may not exceed 78% of average final compensation and the benefit formula uses 100% of average final compensation, a multiplier, and service weighting. The weighted service element of the JRS plan is unique to Virginia.

Should a policy decision be made to improve JRS benefits, the General Assembly may wish to consider any of four potential options presented in this report to increase judicial retirement benefits within the framework of the existing JRS plan. The options include:

- increasing the employer match for the DC Plan for hybrid plan members to 100% of the actual employee match, at an estimated increase in annual cost associated with matching contributions of approximately \$1.2 million, plus approximately \$10,000 in VRS implementation costs potentially with a delayed effective date;
- increasing the DB multiplier to 1.1% prospectively for judges who are at least age 55 at the time of initial appointment or election, at an initial increase in annual funding of approximately \$750,000 to about \$1.4 million over the next 10 years, plus approximately \$201,000 for VRS implementation and a delayed effective date of one fiscal year;
- increasing the DB plan service weighting to 2.75 prospectively for judges who are at least age 55 at the time of initial appointment or election, at an initial increase in funding of approximately \$750,000 to about \$1.4 million over the next 10 years, plus \$152,000 for VRS implementation and a delayed effective date of one fiscal year; or
- moving judges prospectively from the Hybrid Retirement Plan to Plan 2, with employer contribution rates increasing initially by approximately 4.21% of JRS covered payroll and requiring approximately \$4,000,000 annually in additional funding, expected to grow over time to approximately 10.43% higher than today's rate. Taking into account payroll growth, this would result in an annual cost increase of approximately \$18,000,000 higher than would be expected under the current Hybrid Plan benefit structure. This option also requires approximately \$310,000 for VRS implementation and a delayed effective date of one fiscal year.

Overall, benefits for judges vary by state, but Virginia's benefit structure is analogous to the provisions in other states with hybrid plans. A majority of the judges in the Hybrid Retirement Plan can achieve an income replacement ratio analogous to a Plan 1 or Plan 2 member if they maximize their contributions to the DC portion of the hybrid plan. Generally, increases in judicial retirement benefits will increase total employer contribution rates and applicable DB plan unfunded liabilities. The consideration of any such policy change should include an analysis of how effective the change may be in the achievement of the stated policy goals and objectives as well as cost, investment risk, and administrative feasibility associated with such a change.

Appendix A: National Association of State Retirement Administrators Judicial Retirement Plans Survey

Detailed spreadsheets can be found at <https://www.nasra.org/content.asp?admin=Y&contentid=266>.



Retirement Benefits for State Judges

Summary of Findings

September 2024

In the context of retirement benefits, judges are a particular class of public employee: compared to other groups of public employees, most judges assume their role later in their career—aged in their 50s or later. In addition, many judges accept a lower level of pay relative to what they could earn in the private sector when agreeing to serve in their position.

Successfully attracting and retaining judges can require a retirement benefit that wholly or partially compensates for these factors. As shown by the data compilation that accompanies this narrative, most states provide a retirement benefit for judges that is higher than those of other public employees. In some cases, judicial retirement benefits are significantly higher than those for non-judicial employees. In other cases, judicial retirement benefits are no different from those available to other employees.

Several factors can be used to compare a retirement benefit. Among others, these factors include:

- the number of years required to become eligible to receive an eventual retirement benefit (the vesting period);
- the age at which an employee qualifies for early (reduced) and normal (unreduced) retirement;
- the reduction from a full retirement benefit for those who elect to retire early;
- the contribution rate paid by the employee toward their retirement benefit;
- whether or not the employee participates in Social Security;
- the portion of the employee's salary that is replaced by the retirement benefit; and
- the availability of a retirement cost-of-living adjustment (COLA).

In response to a request from the Virginia Retirement System, NASRA compiled data regarding retirement benefits for judges who are newly appointed or elected in every state and the District of Columbia. Judicial retirement benefits in many states have been modified in recent years, which means that in some states, judges who are currently serving have retirement benefits that differ from those who are appointed or elected today.

The discussion that follows addresses four key components of judicial retirement plan design:

- Social Security participation;
- plan type, i.e. defined benefit, defined contribution, or hybrid plan;
- for states that offer a defined benefit plan or a defined benefit-defined contribution (DB-DC) hybrid plan, the retirement multiplier and the age at which a judge is eligible to receive their full (unreduced) retirement benefit; and
- the contribution judges are required to make toward the cost of their retirement benefit.

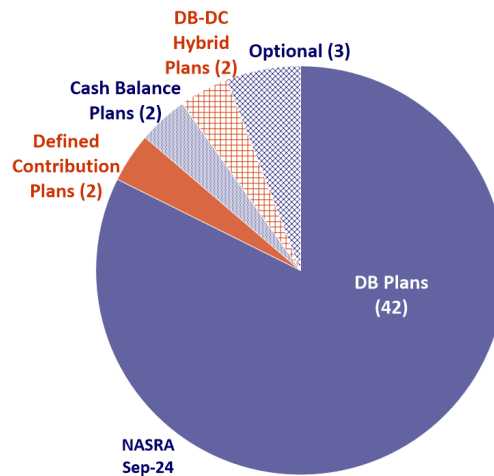
All of the data compiled as part of this project is included in the appendix accompanying this narrative overview.

Social Security

Judges in 41 states and the District of Columbia participate in Social Security.¹ In every state where judges do not participate in Social Security, a defined benefit plan is the sole available retirement benefit. In contrast to retirement benefits for other groups of employees who do not participate in Social Security, except for contribution rates paid by judges, this data compilation reveals no meaningful difference in key elements of retirement benefits between judges who participate in Social Security and those who do not. Contribution rates paid by judges who do not participate in Social Security generally are higher than in plans whose members also participate in Social Security.

Plan Type

Figure 1: Distribution of plan types for state judges appointed or elected currently



As Figure 1 shows, most states (42), provide a mandatory defined benefit plan for newly-hired or elected judges. Three states (Florida, Pennsylvania, and Washington) allow judges to choose their retirement benefit from (depending on the state) among a DB plan, a DC plan, and a hybrid plan. Two states (Tennessee and Virginia) provide a retirement plan that is a combination of defined benefit and defined contribution plans, also known as a hybrid retirement plan. Two states, Kentucky and Texas, provide judges with a different type of hybrid plan, known as a cash balance plan. Finally, Arizona and Michigan provide a defined contribution plan as the primary retirement benefit to newly-appointed or elected judges.

Retirement Multiplier/Replacement Benefit

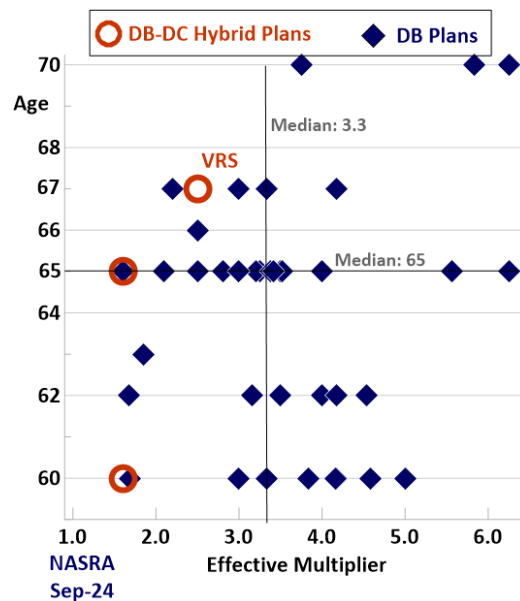
The data compilation reveals a wide variety of retirement plan designs. Defined benefit plans typically feature a retirement benefit based on a formula that provides a specific percentage – generally referred to as the multiplier, or retirement factor – of a participant’s final average salary for each year of creditable service. This formula allows rough comparisons of retirement benefit levels among different retirement plans. In some states, instead of a specific retirement multiplier or factor, judicial plans provide different multipliers at different levels of service. Many judicial plans provide a retirement benefit as a percentage of judges’ final average salary upon attainment of a designated age or length of service.

¹ States where judges do not participate in Social Security are Alaska, California, Colorado, Illinois, Louisiana, Maine, Massachusetts, Nevada, and Ohio.

Figure 2 plots two key factors affecting retirement benefit levels: the minimum age at which a judge with 12 years of service may retire with a full (unreduced) retirement benefit; and the effective retirement multiplier used to calculate the retirement benefit with 12 years of service.

Rather than specify a multiplier per se, some states prescribe the judge’s retirement benefit as a percentage of final average salary upon attainment of a designated age, period of service, or both. In these cases, the effective retirement multiplier is imputed based on these factors. For example, judges in New Hampshire are eligible to receive a retirement benefit of 75% of their final average salary upon attainment of age 65 with 10 or more years of service. Therefore, a New Hampshire judge reaching age 65 with 12 years of service has an effective retirement multiplier of 6.25% ($75\% \div 12$).

Figure 2: Distribution of minimum age required to qualify for a normal (unreduced) retirement benefit with 12 years of service, and the effective retirement multiplier



Notes:

- Includes only DB and DB-DC hybrid plans; excludes states with only a defined contribution plan and a cash balance plan as judges’ primary retirement benefit.
- Excludes two states where the judicial vesting period exceeds 12 years, meaning that judges do not qualify for a full retirement benefit at any age with 12 years of service.
- The Effective Multiplier for VRS reflects the effect of Virginia’s weighting factor policy on a judge who is elected or appointed to the bench at age 55.

Figure 2 illustrates a significant range of retirement benefit levels and eligibility criteria: the lowest age at which a judge is eligible for a full retirement benefit is 60, and the highest age is 70. For non-hybrid plans, the lowest effective retirement multiplier is 1.60 percent and the highest is 6.25 percent. Among the three DB-DC hybrid plans, the lowest retirement age is 60, and the highest is 67 (for judges in Virginia). Although at 1.0 percent, the Virginia retirement multiplier is the lowest in the nation among retirement plans with a defined benefit component, the plan’s weighting factor policy, described below, increases the plan’s effective multiplier, significantly in some cases, depending chiefly on the age of the judge at the time they join the plan. The multiplier for the other two DB-DC hybrid plans is 1.6 percent. Pension benefits in these DB-DC hybrid plans, including the Virginia Retirement System plan, are supplemented by participation in a DC plan.

Virginia Retirement System Weighting Factor Policy

The VRS weighting factor policy is an unusual or unique plan design feature designed to offset the effect of judges (generally) being older upon attainment of their position, by allowing judges to accumulate service credit more rapidly. This results in an increase to their retirement benefit. For example, a Virginia judge who is appointed at age 55 and retires with 12 years of service can expect to receive a benefit equal to 30 percent of final average salary, reflecting an effective retirement multiplier of 2.5 percent. This compares with a benefit equal to 12 percent of final average salary without the weighting factor policy, based on an effective retirement multiplier of 1.0 percent.

Contributions paid by judges

As with nearly all non-judicial public employees, most judges also are required to contribute toward the cost of their retirement benefit. Figure 3 plots the employee contribution rate paid by judges appointed or elected currently in every state and the District of Columbia.

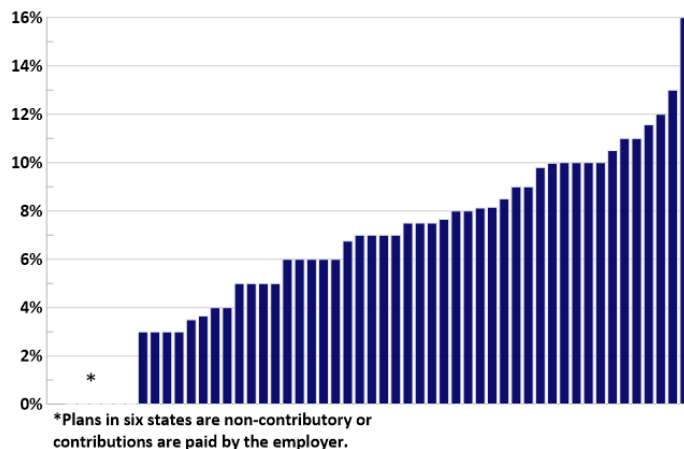
The rate judges contribute toward their retirement benefit generally is higher for judges who do not participate in Social Security. As with plans for other employee groups, employee contribution rates for those who also participate in Social Security are lower than for employees who do not participate in Social Security.

The median employee contribution rate for judges who also participate in Social Security is 6.0 percent, which is slightly below the 6.10 percent median rate for all (non public-safety) public employees who also participate in Social Security. Judges in non-Social Security states pay a median contribution rate of 10.0 percent, compared to a median 9.0 percent contribution rate for non-judicial employees. Judges in Virginia contribute 5.0 percent of pay, include 4.0 percent to the DB plan and 1.0 percent to the DC plan component. Virginia judges may elect to contribute more toward their DC plan.

Notably, judges in six states, including one non-Social Security state, do not contribute to their retirement benefit, either because the plan is non-contributory or because the employer pays the employer contribution on behalf of the judicial employee.

Contribution rates in some states are subject to change for individual plan participants under certain circumstances, such as the judge qualifying for a full retirement benefit or reaching a designated threshold of length of service.

Figure 3: Distribution of contribution rates as a percentage of salary paid by judges in each state toward their retirement benefit



Conclusion

Judges are a unique class of retirement plan participant, as most of them assume their professional role at a more advanced age than other public employees, and they also typically are paid less than their fellow attorneys in the courtroom. For these and other reasons, many states have designed retirement benefits that enable the state's ability to attract and retain qualified judges. Some states, however, provide judges with the same benefit as that provided to other employee groups. The result is a wide disparity among states in judicial benefit levels and required employee contribution rates.

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Appendix B: Summary of Benefit Increase Options

Option: Increase the employer match for the DC Plan for hybrid plan members to 100% of the actual employee match. The estimated increase in annual cost associated with matching contributions is approximately \$1.2 million. VRS implementation is estimated at \$10,000 plus any costs associated with Department of Accounts implementation. VRS may require a delayed effective date.

Option: Increase the DB multiplier to 1.1% prospectively for judges who are at least age 55 at the time of initial appointment or election. The estimated initial increase in annual funding is approximately \$750,000, increasing to about \$1.4 million over the next 10 years. VRS implementation is estimated at \$201,000. VRS will require a delayed effective date of one fiscal year;

Option: Increase the DB plan service weighting to 2.75 prospectively for judges who are at least age 55 at the time of initial appointment or election. The estimated initial increase in funding is approximately \$750,000, increasing to about \$1.4 million over the next 10 years. VRS implementation is estimated at \$152,000 for VRS. VRS will require a delayed effective date of one fiscal year.

Option: Move judges prospectively from the Hybrid Retirement Plan to Plan 2. Employer contribution rates will increase initially by approximately 4.21% of JRS covered payroll and require approximately \$4,000,000 annually in additional funding. This employer contribution rate is expected to grow over time to approximately 10.43% higher than today's rate. Taking into account payroll growth this would result in an annual cost increase of approximately \$18,000,000 higher than expected under the current Hybrid Plan benefit structure. VRS implementation is estimated at \$310,000. VRS will require a delayed effective date of one fiscal year.

