

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 663

An Act to amend and reenact §§ 51.1-1103, 51.1-1106, and 51.1-1140 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 51.1-1135.2, relating to the Virginia Retirement System provisions of a long-term care program and the state sickness and disability program.

[S 120]

Approved April 6, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-1103, 51.1-1106, and 51.1-1140 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 51.1-1135.2 as follows:

§ 51.1-1103. Participation in the program.

A. *All prior elections to participate in the program shall be irrevocable.*

B. *1. Except for eligible employees who are employed by an institution of higher education in a faculty position performing teaching, research or administrative duties, all eligible employees commencing employment or who are reemployed on or after January 1, 1999, shall participate in the program. The effective date of participation in the program for such employees shall be their first day of employment.*

2. Except for such employees of an institution of higher education, all eligible employees not participating in the program prior to October 1, 2002, shall participate in the program effective January 10, 2003, unless such employee elects not to participate in the program as provided herein. An election not to participate shall be in writing, and on forms prescribed by the Retirement System, and shall be received by the Retirement System during the period commencing on October 1, 2002, but before January 1, 2003. An election not to participate in the program shall be irrevocable and such employee shall be ineligible to participate in the program for the period of his continued employment by the Commonwealth.

B. *All eligible employees who commenced employment prior to January 1, 1999, may elect to participate in the program. Any election to participate in the program shall be in writing and shall be submitted to the Board or its designee during an enrollment period commencing January 1, 1999, and ending on March 31, 1999. Any election to participate in the program shall be irrevocable. Any such eligible employee who does not elect to participate in the program during the enrollment period shall be ineligible to participate in the program for the period of his continued employment by the Commonwealth. Any eligible employee who does not affirmatively elect to participate in the program shall be deemed to have declined to participate in the program. The effective date of participation in the program for electing employees shall be the first day of the pay period following the delivery of notice of the election to the Board or its designee.*

C. *Any eligible employee who is employed by an institution of higher education in a faculty position performing teaching, research or administrative duties may elect to participate in the program established under this chapter or under an existing program provided by the institution. For eligible employees who commenced employment prior to January 1, 1999, the election shall be in accordance with subsection B. For eligible employees commencing employment or who are reemployed on or after January 1, 1999, an irrevocable decision to participate in either program established under this chapter or the program provided by the institution shall be made not later than ninety days from the time of entry upon the performance of his duties. Any eligible employee who is (i) employed by an institution of higher education in a faculty position performing teaching, research or administrative duties prior to October 1, 2002, and (ii) not participating in the program, shall participate in the program established under this chapter effective January 10, 2003, unless such employee elects not to participate in the manner provided in subdivision B 2. Any eligible employee of an institution of higher education in a faculty position performing teaching, research or administrative duties employed or reemployed on or after October 1, 2002, shall participate in the program unless such employee elects not to participate in the program, in writing and on such forms as prescribed by the Retirement System, within sixty days from the time of entry upon the performance of his duties. The effective date of participation in the program for such employees shall be the first day following the expiration of such sixty-day period or January 10, 2003, whichever is later.*

Any eligible employee under this subsection shall participate in the sickness and disability program established by his institution of higher education until such time as the employee participates in the program established under this chapter. If the institution of higher education has not established its own sickness and disability program, such eligible employee shall participate in the program established under this chapter effective on his first day of employment.

An election not to participate in the program established under this chapter shall be irrevocable and such employee shall be ineligible to participate in the program for the period of his continued employment by the Commonwealth.

D. In addition to the conditions set forth in subsection B, any eligible employee commencing employment or who is reemployed prior to January 1, 1999, who is a member of the retirement system shall select one of the following options at the time of making his election to participate in the program:

1. To convert his sick leave balance as of the effective date of coverage to service credit under the retirement system on the basis of one month of service for each 173 hours of sick leave, rounded to the next highest month; or

2. To convert his sick leave balance as of the effective date of coverage to disability credits as provided in subsection F. The provisions of this subsection shall apply to any eligible employee who participates in the program under the provisions of subdivision B 2 or subsection C. Any eligible employee, including a person employed by an institution of higher education in a faculty position performing teaching, research or administrative duties, who (i) is a member of the Retirement System, and (ii) commenced employment or was reemployed prior to January 1, 1999, shall have his sick leave balances, as of the effective date of coverage in the program, converted to disability credits, as provided in subsection E.

E. Any participating employee commencing employment prior to January 1, 1999, who elects to participate in the program and is not a member of the retirement system shall convert his sick leave balance as of the effective date of coverage to disability credits as provided in subsection F.

F. Any participating eligible employee converting his sick leave balance as provided in subdivision D 2 or subsection E D shall receive one hour of disability credit for each hour of sick leave. Disability credits shall be used to continue periods for which the participating employee receives income replacement during periods of short-term and long-term disability at 100 percent of creditable compensation. Disability credits shall be reduced by one day for each day that the participating employee receives short-term or long-term disability benefits.

F. Upon retiring directly from state service and receiving an immediate annuity, the eligible employee's unused disability credits shall be converted to service credit under the Retirement System at the rate of one month of service for each 173 hours of disability credits, rounded to the next highest month, unless the employee elects to be paid for the balance of such disability credits under the same terms and subject to the same conditions as are in effect for the payment of sick leave benefits in the employee's agency on December 31, 1998. Upon leaving state service under any other circumstances, the employee shall be paid for the balance of such disability credits under the same terms and subject to the same conditions as are in effect for the payment of sick leave benefits in the employee's agency on December 31, 1998, unless he elects to have such credits converted to service credit under the Retirement System at the rate of one month of service for each 173 hours of disability credits, rounded to the next highest month. Upon entry into long-term disability, the employee may be paid for the balance of such disability credits under the same terms and subject to the same conditions in effect for payment of sick leave benefits in the employee's agency as of December 31, 1998.

G. Eligibility for participation in the program shall terminate upon the earliest to occur of an employee's (i) termination of employment, (ii) death, or (iii) retirement from service. Eligibility for participation in the program shall be suspended during periods that an employee is placed on nonpay status, including leave without pay, if such nonpay status is due to disciplinary action.

§ 51.1-1106. Sick leave benefit for nonparticipating employees.

Eligible employees subject to personnel policies of the Department of Human Resource Management who do not elect not to participate in the program shall receive sick leave benefits in accordance with policies of the Department of Human Resource Management. Eligible employees not subject to personnel policies of the Department of Human Resource Management who do not elect not to participate in the program shall receive sick leave benefits in accordance with policies of their appointing authority.

§ 51.1-1135.2. Board authorized to provide long-term care insurance and benefits.

A. For purposes of this section, "eligible employee" means the same as that term is defined in § 51.1-1100.

B. The Board is authorized to develop, implement, and administer a long-term care insurance program for eligible employees. The Board may contract for and purchase such long-term care insurance or may self-insure long-term care benefits or may use such other actuarially sound funding necessary to effectuate such long-term care insurance and benefits.

C. The costs of providing long-term care benefits shall be paid by state agencies from funds as shall be appropriated by law to state agencies. State agencies shall pay to the Board from such funds contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term care insurance and benefits for eligible employees, and (ii) administer the long-term care insurance program, including providing case management and cost containment programs. Contributions shall be deposited in the Disability Insurance Trust Fund established under § 51.1-1140.

§ 51.1-1140. Funding of program; Disability Insurance Trust Fund established.

A. The costs of providing sick leave, family and personal leave, and short-term disability benefits shall be paid by state agencies from funds as shall be appropriated by law to state agencies.

B. State agencies shall pay to the Board, from funds as shall be appropriated by law to state agencies, contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term disability insurance policies under this chapter, and (ii) administer the Program, including providing case management and cost containment programs. Contributions shall be deposited in the Disability Insurance Trust Fund.

C. There is hereby established the Disability Insurance Trust Fund. The costs incurred by the Board in providing policies of long-term disability insurance and administering the Program *and in administering the long-term care insurance program established under § 51.1-1135.2*, including the provision of case management and cost containment programs, shall be withdrawn from time to time by the Board from the Disability Insurance Trust Fund. The funds of the Disability Insurance Trust Fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the participating employees and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the Disability Insurance Trust Fund.