

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

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

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57 sickness and disability program, such eligible employee shall participate in the program established
58 under this chapter effective on his first day of employment.

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

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

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

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

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

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

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

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

102 § 51.1-1106. Sick leave benefit for nonparticipating employees.

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

109 § 51.1-1135.2. Board authorized to provide long-term care insurance and benefits.

110 A. For purposes of this section, "eligible employee" means the same as that term is defined in
111 § 51.1-1100.

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

116 C. The costs of providing long-term care benefits shall be paid by state agencies from funds as shall
117 be appropriated by law to state agencies. State agencies shall pay to the Board from such funds

118 *contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be*
119 *required from time to time to (i) obtain and maintain long-term care insurance and benefits for eligible*
120 *employees, and (ii) administer the long-term care insurance program, including providing case*
121 *management and cost containment programs. Contributions shall be deposited in the Disability*
122 *Insurance Trust Fund established under § 51.1-1140.*

123 § 51.1-1140. Funding of program; Disability Insurance Trust Fund established.

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

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

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