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HOUSE BILL NO. 468

Offered January 11, 2006

Prefiled January 9, 2006

A *BILL to amend and reenact §§ 51.1-1112, 51.1-1114, 51.1-1123 and 51.1-1125 of the Code of Virginia, relating to the Virginia Retirement System; sickness and disability program.*

Patron—Ingram

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-1112, 51.1-1114, 51.1-1123 and 51.1-1125 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-1112. Long-term disability benefit.

A. Long-term disability benefits for participating employees shall commence upon the expiration of a 125-work-day waiting period. The waiting period shall commence the first day of the disability. If an employee returns to work for 14 or fewer consecutive calendar days during such 125-work-day waiting period and cannot continue to work, the periods worked shall not be deemed to have interrupted the 125-work-day waiting period. However, if the cause of the participating employee's disability is a major chronic condition, as defined by the Board or its designee, the 125-work-day waiting period is cumulative from the first day of the disability and can be interrupted by periods of active employment.

B. Except as provided in subsection D and § 51.1-1131, long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives long-term disability benefits shall (i) not include salary increases awarded during the period covered by long-term disability benefits and (ii) be increased annually by an amount recommended by the actuary of the Virginia Sickness and Disability Program and approved by the Board.

D. An employee's disability credits shall be used, on a day for day basis, to extend the period an employee receives long-term disability benefits paid at 100 percent of replacement of creditable compensation.

E. Long-term disability benefits shall be payable only during periods of (i) total disability or (ii) partial disability.

F. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits, *including such reapplications and appeals of the denial of the claim as may be requested by the administrator of the plan.*

§ 51.1-1114. Adjustments to disability benefits.

A. Disability benefit payments shall be offset by an amount equal to any sums payable to a participating employee from the following sources:

1. During the first 12 months the employee receives disability benefits, an amount equal to the employee's wages and salary from any employment times the creditable compensation replacement percentage;

2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent of the employee's wages and salary from any employment;

3. Except as provided in subsection F, disability payments from the Social Security Administration, military disability benefits, local government disability benefits, federal civil service disability benefits or other similar governmental disability program benefits received by the employee or his family as a result of the qualifying disability;

4. Benefits received from any other group insurance contract provided by the Commonwealth for the purpose of providing income replacement; and

5. Benefits paid under any compulsory benefits law.

~~B. Disability benefit payments shall be offset by amounts from any of the sources listed in subdivisions A 3, A 4, and A 5 for which a participating employee is eligible as if the employee received such amounts. However, if the employee has applied for such benefits, and has reapplied and appealed denials of the claim as requested by the administrator of the plan, and the claim is not approved, the employee's disability payments shall not be reduced thereby.~~

~~CB. If a participating employee's disability benefit payments are reduced as the result of payments from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's disability benefits shall not thereafter be further reduced on account of cost-of-living increases in~~

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59 payments from such sources.

60 ~~DC.~~ Participating employees shall be required to repay, with interest to the Board or their employer,
61 any overpayments of disability benefits on account of the failure of the employee to provide the Board
62 or its designee with information necessary to make any of the reductions required to be made under this
63 article.

64 ~~ED.~~ Any payment to a participating employee that is later determined by the Board or by the
65 employer to have been procured on the basis of any false statement or falsification of any record
66 knowingly made by or on behalf of the member, or the employee's failure to make any required report
67 of change in disability status, may be recovered from the employee by the Board, with interest, either by
68 way of a credit against future payments due the employee, his survivor and beneficiaries or by an action
69 at law against the employee.

70 ~~EE.~~ Supplemental disability payments will not be offset for a participating employee if the employee
71 is receiving a primary retirement benefit for service in the United States armed services, even if a
72 percentage of that primary retirement benefit has been declared a disability payment. Any disability
73 payment that is not a part of the primary retirement benefit will be offset.

74 § 51.1-1123. Supplemental long-term disability benefit.

75 A. Supplemental long-term disability benefits for participating employees shall commence upon the
76 expiration of a 125-work-day waiting period. The waiting period shall commence the first day of the
77 disability. If an employee returns to work for 14 or fewer consecutive days during such 125-work-day
78 period and cannot continue to work, the periods worked shall not be deemed to interrupt the
79 125-work-day waiting period. However, if the cause of the participating employee's disability is a major
80 chronic condition, as defined by the Board or its designee, the 125-work-day waiting period is
81 cumulative from the first day of the disability and can be interrupted by periods of active employment.

82 B. Except as provided in subsection D and § 51.1-1131, supplemental long-term disability benefits
83 shall provide income replacement in an amount equal to 60 percent of a participating employee's
84 creditable compensation.

85 C. Creditable compensation during periods an employee receives supplemental long-term disability
86 benefits shall (i) not include salary increases awarded during the period covered by long-term disability
87 benefits and (ii) be increased annually by an amount recommended by the program actuary and
88 approved by the Board.

89 D. An employee's disability credits shall be used, on a day-for-day basis, to extend the period an
90 employee receives supplemental long-term disability benefits paid at 100 percent of replacement of
91 creditable compensation.

92 E. Payments of supplemental long-term disability benefits payable under this article shall be reduced
93 by an amount equal to any benefits paid to the employee under the Act, for which the employee is
94 entitled to receive under the Act, excluding any benefit for medical, legal or rehabilitation expenses.

95 F. Supplemental long-term disability benefits shall be payable only during periods of total and partial
96 disability.

97 G. ~~To~~ *Unless otherwise directed*, to be eligible for benefits under this section, the employee must
98 apply for Social Security disability benefits, *including such reapplications and appeals of the denial of*
99 *the claim as may be requested by the administrator of the plan.*

100 § 51.1-1125. Adjustments in supplemental disability benefits.

101 A. In addition to offsets equal to the amount of any benefits paid to a participating employee under
102 the Act, supplemental disability benefit payments shall be offset by an amount equal to any sums
103 payable to a participating employee from the following sources:

104 1. During the first 12 months the employee receives disability benefits, an amount equal to the
105 employee's wages and salary from any employment times the income replacement percentage payable;

106 2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent
107 of the employee's wages and salary from any employment;

108 3. Except as provided in subsection G, disability payments from the Social Security Administration,
109 military disability benefits, local government disability benefits, federal civil service disability benefits or
110 other similar governmental disability program benefits received by the employee or his family as a result
111 of the qualifying disability;

112 4. Benefits received from any other group insurance contract provided by the Commonwealth for the
113 purpose of income replacement;

114 5. Benefits paid under any compulsory benefits law; and

115 6. If the participating employee receives a settlement in lieu of periodic payments for a disability
116 compensable under the Act, an amount determined by dividing the workers' compensation benefit which
117 such employee would have received had the lump-sum settlement not been consummated into the
118 settlement actually accepted by the employee.

119 B. Supplemental disability benefit payments shall be reduced by amounts from any of the sources
120 listed in subdivisions A 3, A 4, and A 5 for which a participating employee is eligible as if the

121 employee received such amounts. However, if the employee has applied for such benefits, and has
122 reapplied and appealed denials of the claim as requested by the administrator of the plan, and the claim
123 is not approved, the employee's supplemental disability payments shall not be reduced thereby.

124 *CB.* If a participating employee's disability benefit payments are reduced as the result of payments
125 from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's
126 disability benefits shall not thereafter be further reduced on account of cost-of-living increases in
127 payments from such sources.

128 *DC.* Participating employees shall be required to repay, with interest, to the Board or the employer
129 any overpayments of supplemental disability benefits on account of the failure of the employee to
130 provide the Board or its designee with information necessary to make any of the reductions required to
131 be made under this article.

132 *ED.* Any payment to a participating employee that is later determined by the Board or by the
133 employer to have been procured on the basis of any false statement or falsification of any record
134 knowingly made by or on behalf of the employee, or the employee's failure to make any required report
135 of change in disability status, may be recovered from the employee by the Board, with interest, either by
136 way of a credit against future payments due the employee or by an action at law against the employee.

137 *FE.* If a participating employee's payments under the Act are adjusted or terminated for refusal to
138 work or to comply with the requirements of § 65.2-603, his disability benefits shall be computed as if he
139 were receiving the compensation to which he would otherwise be entitled under the Act.

140 *GF.* Supplemental disability payments will not be offset for a participating employee if the employee
141 is receiving a primary retirement benefit for service in the United States armed services, even if a
142 percentage of that primary retirement benefit has been declared a disability payment. Any disability
143 payment that is not a part of the primary retirement benefit will be offset.