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SENATE BILL NO. 838

Senate Amendments in [] — January 24, 2013

A *BILL to amend and reenact § 51.1-1103 of the Code of Virginia, relating to state employees not participating in Virginia Sickness and Disability Program; purchase of state service.*

Patron Prior to Engrossment—Senator Carrico

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 51.1-1103 of the Code of Virginia is amended and reenacted 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.

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. 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 60 days from the time of entry upon the performance of his duties. The effective date of participation in the program for such employee shall be the first day following the expiration of such 60-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. Notwithstanding any provision to the contrary, no participating employee commencing employment or reemployment on or after July 1, 2009, shall receive benefits under Article 3 of this Chapter (Nonwork Related Disability Benefits) until the participating employee completes one continuous year of active employment or reemployment.

E. 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 F.

F. Any eligible employee converting his sick leave balance as provided in subsection E shall receive one hour of disability credit for each hour of sick leave. Disability credits shall be used to continue

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60 periods for which the participating employee receives income replacement during periods of short-term
61 and long-term disability at 100 percent of creditable compensation. Disability credits shall be reduced by
62 one day for each day that the participating employee receives short-term or long-term disability benefits.

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

76 H. Eligibility for participation in the program shall terminate upon the earliest to occur of an
77 employee's (i) termination of employment, (ii) death, or (iii) retirement from service. Eligibility for
78 participation in the program shall be suspended during periods that an employee is placed on nonpay
79 status, including leave without pay, if such nonpay status is due to suspension pending investigation or
80 outcome of employment-related court or disciplinary action.

81 *I. Any eligible employee [, who is (i) an employee as defined in § 51.1-201 or (ii) an employee as*
82 *defined in § 51.1-212, and] who commenced employment or was rehired prior to January 1, 1999, who*
83 *elected not to participate in the program shall have the option to convert all or part of his sick leave*
84 *balance into service credit under the Retirement System during the period commencing May 1, 2013, but*
85 *before July 1, 2013. The sick leave shall be converted at a rate of one month of service for each 173*
86 *hours of sick leave.*

87 **2. That an emergency exists and this act is in force from its passage.**

88 **[3. That the provisions of this act shall not become effective unless an appropriation to the**
89 **Retirement System Unfunded Liability Special Reserve Fund (for the Virginia Retirement System)**
90 **of at least \$19 million is included in the general appropriations act passed by the 2013 Session of**
91 **the General Assembly, which becomes law. The purpose of such appropriation shall be to fund**
92 **any unfunded liability created in the Virginia Retirement System by the provisions of this act.]**