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SENATE BILL NO. 738

Senate Amendments in [] — January 30, 2015

A BILL to amend and reenact §§ 51.1-1103, 51.1-1110, and 51.1-1112 of the Code of Virginia, relating to Virginia Sickness and Disability Program; open enrollment period for members of the State Police Officers' Retirement System.

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, 51.1-1110, and 51.1-1112 of the Code of Virginia are 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 (i) an employee as defined in § 51.1-201 or (ii) 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 except that any such employee who elects to participate in the hybrid retirement program described in § 51.1-169 shall participate in the program.

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. 1. All eligible employees who are employees as defined by § 51.1-201 and who are not participating in the program as of September 30, 2015, may elect to participate in the program. Any election to participate shall be in writing, on forms prescribed by the Virginia Retirement System, and shall be received by the Retirement System during the period commencing October 1, 2015, but before January 1, 2016. The election to participate shall be irrevocable. The effective date of participation in the program for such employee shall be the first day of the pay period following the delivery of the notice of the election to the Retirement System.

2. An eligible employee who elects to participate in the program pursuant to subdivision 1 shall convert his sick leave balance as of the effective date of coverage to service credit under the Retirement

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59 *System on the basis of one month of service for each 173 hours of sick leave, rounded to the next*
 60 *highest month.*

61 *E.* Notwithstanding any provision to the contrary, no participating employee commencing
 62 employment or reemployment on or after July 1, 2009, shall receive benefits under Article 3 of this
 63 Chapter (~~Nonwork Related Disability Benefits~~) (§ 51.1-1109 *et seq.*) until the participating employee
 64 completes one continuous year of active employment or reemployment.

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

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

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

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

95 **§ 51.1-1110. Short-term disability benefit.**

96 A. Except as provided in subsection ~~D~~ *E* of § 51.1-1103, short-term disability benefits for
 97 participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The
 98 waiting period shall commence the first day of a disability or of maternity leave. If an employee returns
 99 to work for one day or less during the seven-calendar-day waiting period but cannot continue to work,
 100 the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period.
 101 Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the
 102 employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the
 103 result of a catastrophic disability or major chronic condition shall not require a waiting period.

104 B. Except as provided in subsections C and E of this section and § 51.1-1131, short-term disability
 105 coverage shall provide income replacement for a percentage of a participating employee's creditable
 106 compensation during the period specified below that an employee is disabled, on maternity leave, or
 107 takes periodic absences due to a major chronic condition, as determined by the Board or its designee,
 108 based on the number of months of state service as an eligible employee, as follows:

	Work days of 100% replacement	Work days of 80% replacement	Work days of 60% replacement
Months of state service	of creditable compensation	of creditable compensation	of creditable compensation
109 Less than 60	5	20	100
110 60 to 119	25	25	75
111 120 to 179	25	50	50
112 180 or more	25	75	25

113 C. For all eligible employees commencing employment or reemployment on or after July 1, 2009,
 114 except as provided in subsections B and E of this section and § 51.1-1131, short-term disability coverage
 115 shall provide income replacement for (i) 60 percent of a participating employee's creditable
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compensation for the first 60 months of continuous state service after employment or reemployment and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods that he is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, based on the number of months of continuous state service, as determined by the Board or its designee, as follows:

Months of state service	Work days of 100% replacement of creditable compensation	Work days of 80% replacement of creditable compensation	Work days of 60% replacement of creditable compensation
60 to 119	25	25	75
120 to 179	25	50	50
180 or more	25	75	25

D. Creditable compensation during periods an employee receives short-term disability benefits shall include general salary increases awarded during the period of short-term disability coverage.

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

F. Short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability, (iii) maternity leave, or (iv) periodic absences due to a major chronic condition as defined by the Board or its designee.

§ 51.1-1112. Long-term disability benefit.

A. Except as provided in subsection D of § 51.1-1103, long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1110.

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.

G. An employee who is approved for disability benefits on or after the date that is five years prior to his normal retirement date shall be eligible for five years of disability benefits before the employee is required to retire under a service retirement. The five years includes short-term disability and long-term disability.

[2. That the provisions of this act shall not become effective unless an appropriation of at least \$10.7 million to the State Police Officers Sickness and Disability Program Unfunded Liability Special Reserve Fund (for the Virginia Retirement System) is included in a general appropriation act passed in 2015 by the General Assembly that becomes law.]