

Virginia Retirement System 2016 Fiscal Impact Statement

1. Bill Number: HB 363

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Loupassi

3. Committee: Appropriations

4. Title: State Sickness and Disability Program.

5. Summary: Eliminates the one-year waiting period for eligibility for disability benefits for vested local government employees commencing employment in a state position covered under the Virginia Retirement System (VRS), State Police Officers' Retirement System, Virginia Law Officers' Retirement System, or the hybrid retirement program. Under current law, employees who enter state service on or after July 1, 2009, are required to wait one year before they can receive benefits under the state sickness and disability program for nonwork related disabilities. The bill eliminates this waiting period for local government employees who have at least five years of creditable service under VRS (including the hybrid retirement program) and those members in VRS covered by Enhanced Hazardous Duty Benefits (commonly referred to as LEOS) upon commencing employment in a state position with no break in service. In addition, for purposes of determining the disability benefit payable, the bill provides that any such employee upon entering state service will be deemed to have a beginning balance of months of state service equal to the number of months of VRS creditable service credited to him as of his beginning employment date. The provisions of the bill do not affect disability benefits payable or eligibility for such benefits relating to illnesses or injuries occurring prior to July 1, 2016.

6. Budget Amendment Necessary: VRS implementation costs are estimated at approximately \$33,750.

7. Fiscal Impact Estimates: Eliminating the one-year waiting period for eligibility for nonwork related disability benefits would be expected to increase the cost of the Virginia Sickness and Disability Program (VSDP) by 0.0004% of covered payroll, which would equate to approximately \$15,800 per year of additional costs. Exhibit 1 below provides a breakdown by funding source.

Exhibit 1

	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
State - General Fund	\$ 6,100	\$ 6,100	\$ 6,100	\$ 6,100	\$ 6,100	\$ 6,100
SPORS - General Fund	300	300	300	300	300	300
ValORS - General Fund	1,100	1,100	1,100	1,100	1,100	1,100
JRS - General Fund	-	-	-	-	-	-
Teacher - General Fund	-	-	-	-	-	-
TOTAL General Fund	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500
State - Non-General Funds	\$ 8,100	\$ 8,100	\$ 8,100	\$ 8,100	\$ 8,100	\$ 8,100
SPORS - Non-General Funds	100	100	100	100	100	100
ValORS - Non-General Funds	100	100	100	100	100	100
TOTAL - Non-General Funds	\$ 8,300	\$ 8,300	\$ 8,300	\$ 8,300	\$ 8,300	\$ 8,300
Teacher - Local Funds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Political Subdivisions - Local Funds	-	-	-	-	-	-
TOTAL Local Funds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grand Totals	\$ 15,800	\$ 15,800	\$ 15,800	\$ 15,800	\$ 15,800	\$ 15,800

Estimated projections based on employee data and valuation results as of June 30, 2015 and assume a level population throughout projection period.

Payroll projections are assumed to remain level throughout projection period.

- 8. Fiscal Implications:** As of June 30, 2015, the funded status of VSDP stood at 169.44%. Actual census data from the last several years indicates that between 4.5% - 5.0% of “new” hires have prior creditable service which could qualify them for immediate eligibility in the VSDP program as proposed in this bill.
- 9. Specific Agency or Political Subdivisions Affected:** VRS and VRS-participating local government employees who transition into a VSDP-covered position.
- 10. Technical Amendment Necessary:** No.
- 11. Other Comments:** VSDP was first enacted in 1998 and made available to state employees, members of the State Police Officers’ Retirement System, and qualifying part-time employees. Local government employees, certain employees of teaching hospitals, and certain employees of the Virginia Port Authority were excluded from participation. Eligible employees were provided with an opportunity to opt in to VSDP, and all new employees in eligible categories hired on or after January 1, 1999, were automatically enrolled. In 2002, a new enrollment period began, during which eligible employees were included in VSDP unless they opted out.

VSDP is a managed disability program that includes both short-and long-term disability. It replaced the former program of disability retirement for eligible employees and replaced the former sick leave program as well.

At the time of its original enactment, VSDP did not include a waiting period for nonwork related disability benefits, but the waiting period was added for new participants in 2009. There is no waiting period for work-related disability benefits. Under VSDP, the number of days of short-term disability at 100% income replacement is linked to the number of years of service (between one and five). The lowest amount of income replacement is 60%. Employers are required to pay the cost of short-term disability and to hold the employee's position open for six months (the maximum length of short-term disability, except for a limited exception for SPORS that allows one year for work-related injuries). If a member is found to be disabled following the period of short-term disability, the VSDP fund pays for long-term disability benefits and the employer is no longer required to hold the position open.

This bill would eliminate the one-year waiting period for any local government or school division employee who is vested (has 60 months of service) in VRS defined benefit retirement benefits prior to becoming a VSDP participant. HB 363 defines "employee vested prior to participating in the program" as an employee who: 1) was working in a VRS-covered position under Chapter 1 of Title 51.1 with at least five years of creditable service, and 2) did not have a break in service between his or her most recent VRS-covered position and the position through which the member becomes eligible for VSDP participation.

Similar waiting periods are industry standard in managed disability program plan designs. Consistent with industry standards, one of the primary reasons for the addition of the waiting period was to avoid adverse selection. Adverse selection occurs when someone who believes he or she is likely to need disability benefits selects a VSDP-eligible position in order to use the benefit. VRS traditional disability retirement avoids or minimizes adverse selection by requiring that, in order to be eligible for disability retirement, a pre-existing disability must have substantially worsened following the commencement of VRS employment. Linking the number of days of short-term disability at 100% income replacement to the length of service was a cost-saving measure, as well as an additional deterrent to adverse selection.

By removing both of these limitations for VRS-covered employees who are vested based on local service that is not covered by VSDP, it is more likely that there will be a higher usage level of VSDP short- and long-term disability benefits than was assumed when the rates were determined. In addition, since no VSDP contributions would have been made for these local employees prior to their being deemed eligible, any long-term disability benefits paid out would not have been prefunded and could lead to the creation of an unfunded liability.

A higher rate of adverse selection could also impact an agency's ability to perform its core responsibilities. As the intent of the existing one-year waiting period is to prevent adverse selection, HB 363 would remove that protection in some cases. When an employee goes out on a VSDP short-term disability claim, the employer must keep the disabled employee's position open until either 1) the employee returns to work, or 2) the six-month short-term disability period expires. Upon expiration of the short-term disability period the employer may elect to terminate the employee. Keeping a position open for an extended period of time may be burdensome for an agency that has a fixed number of FTE positions. To illustrate, an

agency may need to redistribute work among its other employees, reschedule its other employees, or hire temporary employees to perform the job duties of the disabled employee.

HB 363 would be a change to the current VSDP provisions, where an employee who becomes disabled but has not yet satisfied the one-year VSDP waiting period for nonwork related disability will have his or her position held open only for a shorter period of time mandated by the federal Family and Medical Leave Act (FMLA). The agency may not have to hold the position open at all if the employee does not qualify for FMLA coverage, which also requires a waiting period.

It is also worth noting that the proposed change in HB 363 would create an eligibility difference between VSDP and the new Virginia Local Disability Program (VLDP) for Teachers and Political Subdivisions. VLDP requires a one-year waiting period for nonwork related disabilities.

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