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**HOUSE BILL NO. 1824**

Offered January 9, 2019

Prefiled January 1, 2019

*A BILL to amend and reenact §§ 51.1-1100 and 51.1-1104 of the Code of Virginia, relating to sick leave for state employees; certain disabled veterans.*

Patrons—Reid and Murphy

Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:**

- 1. That §§ 51.1-1100 and 51.1-1104 of the Code of Virginia are amended and reenacted as follows:**  
**§ 51.1-1100. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Workers' Compensation Act (§ 65.2-100 et seq.).

"Company" means an insurance company issuing a long-term disability insurance policy purchased by the Board pursuant to this chapter.

"Disability" means a partial disability or total disability.

"Disability benefit" means income replacement payments payable to a participating employee under a short-term or long-term disability benefit program pursuant to this chapter. Disability benefits do not include benefits payable under the Act.

"Disabled veteran" means a participating employee who served as a member of the Armed Forces of the United States or the Virginia National Guard and has received from the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law a service-connected, permanent, and total disability rating of at least 60 percent for a disability that occurred on or after January 1, 2016.

"Eligible employee" means (i) a state employee as defined in § 51.1-124.3 who is a member of the retirement system, including the hybrid retirement program described in § 51.1-169; (ii) an employee as defined in § 51.1-201; (iii) an employee as defined in § 51.1-212; or (iv) a qualifying part-time employee. Any person participating in a plan established pursuant to § 51.1-126, 51.1-126.1, 51.1-126.4, 51.1-126.5, 51.1-502.1, or 51.1-502.3 shall not be an eligible employee. Employees of the University of Virginia Medical Center covered under the basic insurance policies purchased by the Medical Center shall not be considered eligible employees under this chapter, unless the University of Virginia Board of Visitors, or a duly authorized agent or representative of the Board of Visitors, purchases such insurance policies from the Virginia Retirement System.

"Existing employee" means an employee who elected to participate in the Virginia Sickness and Disability Program.

"Partial disability" exists during the first 24 months following the occurrence or commencement of an illness or injury when an employee is earning less than 80 percent of his predisability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job functions of his own job on an active employment or a part-time basis; or (ii) able to perform all of the essential job functions of his own job only on a part-time basis.

"Participating employee" means any eligible employee required or electing to participate in the program.

"Program" means the program providing sick leave, family and personal leave, short-term disability, and long-term disability benefits for participating employees established pursuant to this chapter.

"Qualifying part-time employee" means any person who would qualify as a state employee as defined in § 51.1-124.3 but, rather than being regularly employed full time on a salaried basis, is regularly employed part time for at least 20 hours but less than 40 hours per week on a salaried basis.

"State service" means the employee's total period of state service as an eligible employee, including all periods of classified full-time and classified part-time service and periods of leave without pay, but not including periods during which the employee did not meet the definition of an eligible employee.

"Total disability" exists (i) during the first 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform all of his essential job functions or (ii) after 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform any job for which he is reasonably qualified based on his training or experience and earning less than 80 percent of his predisability earnings.

"Work-related injury" means an injury, as such term is defined in § 65.2-101, to a participating employee for which benefits are payable under the Act and the Commonwealth is the employer for purposes of the Act.

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59 In addition to the definitions listed above, the definitions listed in § 51.1-124.3 shall apply to this  
 60 chapter except as otherwise provided.

61 **§ 51.1-1104. Sick leave benefit for participating employees.**

62 A. On the effective date of coverage for existing employees, and thereafter on each January 10,  
 63 existing participating full-time employees shall receive an amount of sick leave based on the employee's  
 64 number of months of state service as an eligible employee, as follows:

65 Months of state service	Number of hours
66 Less than 60	64
67 60 to 119	72
68 120 or more	80

69 B. Participating full-time employees, except for those described in subsection A, shall receive an  
 70 initial amount of sick leave at the time their employment or reemployment commences, as follows:

71 Date employment commenced	Number of hours
72 January 10 through July 9	64
73 July 10 through January 9	40

74 Thereafter, on each January 10 such employees shall receive an amount of sick leave as provided in  
 75 subsection A.

76 C. On the effective date of coverage for existing qualifying part-time employees, and thereafter on  
 77 each January 10, existing participating qualifying part-time employees shall receive an amount of sick  
 78 leave based on the employee's number of months of state service as an eligible employee, as follows:

79 Months of state service	Number of hours
80 Less than 120	32
81 120 or more	40

82 D. Participating qualifying part-time employees, except for those described in subsection C, shall  
 83 receive an initial amount of sick leave at the time their employment or reemployment commences, as  
 84 follows:

85 Date employment commenced	Number of hours
86 January 10 through July 9	32
87 July 10 through January 9	20

88 Thereafter, on each January 10 such employees shall receive an amount of sick leave as provided in  
 89 subsection C.

90 E. Any partial calendar month during which a participating employee was employed shall constitute  
 91 one month of state service for purposes of this section.

92 F. Participating employees shall not be paid or otherwise compensated upon leaving employment for  
 93 any balance of unused sick leave provided to them under this section.

94 G. Unused balances of sick leave granted under this section shall not be carried forward beyond the  
 95 calendar year in which such leave is granted.

96 H. Employees receiving disability benefits on January 10 of any year shall be granted sick leave for  
 97 such year on the date they return to active employment. The amount of sick leave granted for such year  
 98 shall be determined as if they were continuing employment on the date of their return to work as  
 99 provided in subsections A through D.

100 1. In addition to all other sick leave granted under this section and provided under policies  
 101 adopted by the Department of Human Resource Management pursuant to subdivision A 13 of  
 102 § 2.2-1201, a disabled veteran shall receive 96 hours of sick leave, which shall be used only for the  
 103 purpose of undergoing medical treatment, including mental health treatment, for his military  
 104 service-related disability. The leave program under this subsection shall be administered by the  
 105 Department of Human Resource Management.

106 2. Sick leave granted under this subsection shall be granted on the effective date of the disabled  
 107 veteran's disability rating decision from the U.S. Department of Veterans Affairs, or on the first day the  
 108 disabled veteran begins, or returns to, employment after active duty, whichever is later, and shall  
 109 remain available for use for the following 12 months of employment. Sick leave granted pursuant to this  
 110 subsection that is not used during the 12-month period shall not be carried over and shall be forfeited.

111 3. Submission of satisfactory proof that sick leave granted under this subsection is used for treatment  
 112 of a service-connected disability may be required pursuant to policies developed by the Department of  
 113 Human Resource Management.

114 4. Any sick leave granted pursuant to this subsection shall be ineligible for conversion to disability  
 115 credit pursuant to the provisions of § 51.1-1103.