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## HOUSE BILL NO. 1622

Offered January 8, 2003

Prefiled December 27, 2002

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

\_\_\_\_\_  
Patrons—Cox and Reid

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Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:****1. That §§ 51.1-1114 and 51.1-1125 of the Code of Virginia are amended and reenacted as follows:**

§ 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 twelve 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 twelve months the employee receives disability benefits, an amount equal to seventy percent of the employee's wages and salary from any employment;

3. ~~Disability~~ 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.

C. 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 payments from such sources.

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

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

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

§ 51.1-1125. Adjustments in supplemental disability benefits.

A. In addition to offsets equal to the amount of any benefits paid to a participating employee under the Act, supplemental 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 twelve months the employee receives disability benefits, an amount equal to the employee's wages and salary from any employment times the income replacement percentage payable;

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

3. ~~Disability~~ Except as provided in subsection G, disability payments from the Social Security Administration, military disability benefits, local government disability benefits, federal civil service

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59 *disability benefits* or other similar governmental disability program benefits received by the employee or  
60 his family as a result of the qualifying disability;

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

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

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

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

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

77 D. Participating employees shall be required to repay, with interest, to the Board or the employer any  
78 overpayments of supplemental disability benefits on account of the failure of the employee to provide  
79 the Board or its designee with information necessary to make any of the reductions required to be made  
80 under this article.

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

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

89 *G. Supplemental disability payments will not be offset for a participating employee if the employee is*  
90 *receiving a primary retirement benefit for service in the United States armed services, even if a*  
91 *percentage of that primary retirement benefit has been declared a disability payment. Any disability*  
92 *payment that is not a part of the primary retirement benefit will be offset.*