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HOUSE BILL NO. 2071

House Amendments in [] — January 23, 2003

A BILL for the relief of Deborah G. Wheeling.

Patron Prior to Engrossment—Delegate Dudley

Referred to Committee on Appropriations

Whereas, Deborah G. Wheeling (Ms. Wheeling) is a resident of Rocky Mount, Virginia; and

Whereas, Ms. Wheeling was employed as a Special Education teacher with the City of Salem Public School System from August of 1985 to February of 1998; and

Whereas, in September of 1997, Ms. Wheeling received physical injuries when she was involved in an automobile accident; and

Whereas, the physical injuries compounded existing emotional and physiological problems for which Ms. Wheeling was already receiving treatment; and

Whereas, on December 18, 1997, Ms. Wheeling filed for disability retirement benefits; and

Whereas, Ms. Wheeling's application for disability retirement was reviewed by a medical board created by the Virginia Retirement System (VRS) pursuant to § 51.1-124.23 of the Code of Virginia and recommended for denial in [~~January 1999~~ March 1998] ; and

Whereas, Ms. Wheeling appealed the decision of the medical board; and

Whereas, upon further review, the medical board recommended denial of the application in April 1998; and

Whereas, Ms. Wheeling appealed the second decision of the medical board; and

Whereas, after additional review of information provided by Ms. Wheeling, the medical board again recommended denial of her application in September 1998; and

Whereas, Ms. Wheeling appealed the third decision of the medical board; and

Whereas, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), an informal fact-finding conference was held on February 4, 1999, before a hearing officer regarding Ms. Wheeling's application; and

Whereas, on March 16, 1999, the hearing officer issued his decision recommending that Ms. Wheeling's application for disability be denied; and

Whereas, on April 9, 1999, Ms. Wheeling, after receiving a copy of the hearing officer's proposed finding, provided the VRS with a letter stating her intention to "...appeal [her] case to the full commission...", citing medical records that were not reviewed by the medical board; and

Whereas, on April 15, 1999, the VRS issued a final case decision stating that Ms. Wheeling's application for disability retirement was denied. The final decision informed Ms. Wheeling that she could appeal the decision and that any further appeal must be made within 30 days of the letter in accordance with the Rules of the Supreme Court of Virginia; and

Whereas, the letter received by the VRS on April 9, 1999, did not comply with the requirements of the Administrative Process Act for perfecting the appeal of a final decision; and

Whereas, Ms. Wheeling's mental condition, upon which her disability retirement application was based, had deteriorated to the point that she was unable to ensure that the previous medical board had all relevant medical records or to understand the communications she had received concerning the final decision and what she needed to do to perfect her appeal; and

Whereas, Ms. Wheeling's failure to perfect her appeal of the final decision is directly due to the ongoing mental problems she has been experiencing and continues to experience and has resulted in her losing the opportunity to contest the decision of the VRS regarding her disability application; and

Whereas, Ms. Wheeling has no other means to obtain relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. That the Virginia Retirement System (VRS) is directed to allow Deborah G. Wheeling to submit the additional medical records relative to her disability application within 60 days of the effective date of this act and to review such records in determining the merits of her application for disability retirement.

ENGROSSED

HB2071E