

## Virginia Retirement System 2014 Fiscal Impact Statement

**1. Bill Number:** SB 89

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

**2. Patron:** Newman

**3. Committee:** Finance

**4. Title:** Virginia Retirement System; disability program for hybrid retirement plan participants.

**5. Summary:** Provides that a disability program that provides income protection of at least 60% through the use of paid leave, or disability payments, is deemed a program comparable to the Virginia Retirement System's (VRS's) disability program for hybrid retirement plan participants, which an employer may provide in lieu of the disability program for Hybrid Retirement Program participants set out in Title 51.1.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** There is no fiscal impact to this bill for VRS as the costs for the disability program for hybrid retirement program participants pursuant to § 51.1-1150 et seq. (Chapter 11.1 of Title 51.1) or a comparable plan are borne by local employers. VRS will incur some expenses in revising communication, training, and other materials as well as its web site. School divisions, however, receive general funds under the Standards of Quality formula that may be applied to the costs of a hybrid disability program.

**8. Fiscal Implications:** See Fiscal Impact Estimates above.

**9. Specific Agency or Political Subdivisions Affected:** VRS and VRS-participating local employers and school divisions that have opted out of the VRS-provided disability program for hybrid employees.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:**

This bill as drafted would allow an employer whose governing body has notified VRS that it will provide coverage comparable to that provided under the disability program for Hybrid Retirement Program participants (referred to also as the Virginia Local Disability Program or VLDP) to provide 60% income replacement during periods of medical disability in order to be considered comparable. Out of 595 local employers, 394 have opted out of VLDP and 201 are participating. The changes in this bill would only apply to the 394 employers that

have opted out of VLDP. While the current statute requires these employers to provide disability coverage to their hybrid employees that is comparable to the provisions of Chapter 11.1 of Title 51.1 (§ 51.1-1150 et seq.), this bill does not cover a number of provisions that are outlined specifically in VLDP. Below are areas on which the bill is generally silent:

- The bill gives no time-line for benefits. Neither short- or long-term disability is defined.
- The bill gives no indication of how long an employee would be covered for 60% income replacement or whether there would be a waiting period for coverage.
- There is no indication as to whether the employee would still earn service credit on long-term disability as they would under VLDP.
- The bill does not specify coordination with Worker's Compensation or whether there would be offsets as is the case with VLDP (for example, under VLDP an employee does not receive both Worker's Compensation and disability payments if that combination would provide income replacement above the appropriate percentage). Offsets are also not specified in relation to Social Security Disability payments.
- There is no guidance on how the employer should treat successive periods of short-term disability.
- There is no guidance on return to work and rehabilitation incentives as provided for example in § 51.1-1168 and § 51.1-1160.
- The bill does not provide details on coverage for catastrophic conditions or a major chronic (recurring) disability.
- There is no guidance on whether there will be employer contributions to the defined contribution portion of the Hybrid Retirement Program during periods where the employee is deemed disabled under Social Security.
- The bill does not specify eligibility for ancillary benefits, such as group life coverage.

VLDP provides a specific schedule of short- and long-term disability benefits. While some of the income replacement requirements are for 60% of pre-disability earnings, other provisions require periods of 100% and 80% income replacement, depending on the employee's length of service with the same employer. See for example § 51.1-1155(B), which provides that during periods of short-term disability an employee with at least 60 continuous months of employment with the same employer is entitled to 25 work days of 100% income replacement and another 25 work days of 80% income replacement before moving to 60% income replacement. Therefore, a program that only provides 60% income replacement would be very different from the current VLDP coverage. As there is no disability retirement under the Hybrid Retirement Plan, the statute provides for VLDP or a comparable plan. By allowing considerable employer discretion in plan design, this bill could create a situation where hybrid employees whose employers selected VLDP coverage will have very different disability coverage than hybrid employees whose employers opted out.

Under the bill as drafted, it appears that an employer could require an employee to use a full day of paid leave, but only pay the employee for 60% of his or her pre-disability income. Under the language in this bill, an employer could also limit the amount of sick leave an employee in the Hybrid Retirement Program may use to 4.8 hours per day (60% of 8) even if the employee has ample sick leave to cover the time absent, although the employer would not be required to do so.

In addition, an employer would need to consider how to provide coverage to an employee who did not have paid leave. Alternatively, the bill allows the employer to offer a disability program, in lieu of paid leave, to provide 60% income protection to the employee.

**Date:** 01.14.2014

**Document:** SB89.DOC