



SPONSOR: Sen. Cook & Rep. DiPinto & Rep. Wagner;
Sens. Reps.
McBride Buckworth
Henry Fallon
Vaughn Ulbrich
Amick Schwartzkopf
Cloutier Williams
Still

DELAWARE STATE SENATE

143rd GENERAL ASSEMBLY

SENATE BILL NO. 243

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DISABILITY INSURANCE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 52A, Title 29, of the Delaware Code by adding a new section thereto as follows:

“§ 5257. Return to Work.

Once an employee has been determined to have the ability to return to employment by the Committee, the employee will receive the following assistance:

(a) Merit employees may be placed in any vacant merit position, for which they qualify, by the Office of Management & Budget.

(b) Non-merit state employees, and employees from non-state employers will be placed by that employer into a vacant position within their respective agency for which the employee qualifies.”

Section 2. Amend §5201(b), Title 29, of the Delaware Code by striking “Chapter 52A” in the last sentence thereof and substituting “§5253(c)” in lieu thereof.

Section 3. Amend §5201 (c), Title 29, of the Delaware Code by adding the following sentence at the end thereof:
“A ‘regular officer or employee’ shall also include an employee who is receiving disability benefits pursuant to §5253(b) of this Title.”

Section 4. Amend §5202(a), Title 29, of the Delaware Code by adding thereto a new paragraph (4) as follows:
“(4) Beginning January 1, 2006, employees identified under Title 14 of the Delaware Code who are receiving a Short-Term Disability benefit for a period greater than 90 days pursuant to §5253(b) of this Title and have exhausted all of their paid leave.”

17 Section 5. Amend §5253(b) (4), Title 29, of the Delaware Code by striking the words “earned sick” therefrom and
18 substituting “annual, sick, compensatory, or donated” in lieu thereof.

19 Section 6. Amend §5519, Title 29, of the Delaware Code by adding thereto a new subsection (c) to read as follows:
20 “(c) If it is determined by the State Pension Administrator that an employee is or was unable to make this election in a timely
21 manner due to circumstances beyond the employee's control, the Administrator, in his sole and absolute discretion, may extend the
22 time period for making the election beyond the periods specified in this section.”

23 Section 7. Amend §5253(d), Title 29, of the Delaware Code by deleting said subsection in its entirety and substituting the
24 following in lieu thereof:

25 “(d) Eligibility for participation in the program shall terminate upon the earliest to occur of an employee's (i) ability to return to
26 employment, (ii) death, or (iii) normal service retirement at age 65. If the employee becomes disabled after age 60, the maximum
27 duration of benefits will be subject to the following:

28	Age when disabled	Benefit duration (months)
29	61	42
30	62	36
31	63	30
32	64	24
33	65	21
34	66	18
35	67	48
36	68	15
37	69+	12”

38 Section 8. Amend §5501(d) (20), Title 29, of the Delaware Code by striking the phrase “90 days” wherever it appears
39 therein and by substituting “90 days or the balance for which the employee received payment” in lieu thereof.

40 Section 9. Amend §5253(c), Title 29, of the Delaware Code by adding thereto a new paragraph (5) to read as follows:
41 “(5) Once Long-term disability benefits commence the employee shall be eligible to receive a payoff of accrued unused sick leave
42 based on the rules in place by their employer.”

43 Section 10. Amend §9602 (a), Title 29, of the Delaware Code by deleting the words “Benefits and Insurance
44 Administrator” from the second sentence therein and substituting the words “Secretary of Health and Social Services” in lieu

45 thereof; and further amend §9602 (a), Title 29, of the Delaware Code by deleting the words “Benefits and Insurance Administrator”
46 from the last sentence therein and substituting the words “Director of the Office of Management and Budget” in lieu thereof.

47 Section 11. Amend Chapter 52 A, Title 29 of the Delaware Code, by adding thereto a new section 5258 to read as follows:
48 “§5258. Appeals.

49 The carrier shall notify a participating employee of its determination of the employee’s eligibility for short-term and/or long-term
50 disability benefits in writing by certified mail, return receipt requested, within ten (10) days of the carrier’s final determination.

51 Within twenty (20) days of the day that the carrier’s written notice of final determination of eligibility was mailed to the employee,
52 an aggrieved participating employee may appeal any denial of disability benefits by filing a written petition setting forth with
53 particularity the grounds for appeal with the Benefits and Insurance Administrator of the Office of Management and Budget
54 (‘Administrator’) who shall meet with the employee and conduct an informal review, and who shall have the authority to reverse all
55 or any part of the decision of the carrier to deny benefits. The Administrator shall issue a final written decision and shall mail the
56 same to the employee by certified mail, return receipt requested, within thirty (30) days of meeting with the employee.

57 If the Administrator shall affirm the carrier’s decision to deny disability benefits or any part thereof, an aggrieved employee may
58 appeal to the Committee within twenty (20) days of the day the notice of determination was mailed by the Administrator by filing a
59 written petition with the Committee setting forth with particularity the grounds for appeal. The Committee may designate a hearing
60 officer to hear evidence presented by the participating employee or, in its sole discretion, it may decide to hear the appeal directly.
61 The Committee or hearing officer, as the case may be, shall determine whether the determination to deny benefits complies with the
62 applicable disability plan adopted by the Committee. The hearing officer and/or Committee shall have all of the following powers
63 in respect to the conduct at the hearing:

64 (a) To issue subpoenas and administer oaths in any proceeding. Any subpoena process or order or any notice or paper requiring
65 service may be sent by certified mail, return receipt requested;

66 (b) To examine persons as witnesses, take evidence, require the production of documents, and do all other things pursuant to law
67 which are necessary to determine the appeal. In proceedings before the Committee or its hearing officer, if any person neglects to
68 produce any pertinent document, neglects or refuses to appear after having been subpoenaed, refuses to testify or be examined,
69 disobeys or resists any lawful order or process, or intentionally obstructs the hearing, the Committee shall certify facts under the
70 signature of its chairperson or the hearing officer to any Judge of the Superior Court, which Judge shall there upon hear the
71 evidence as to the acts complained of. The Judge shall, if the Judge deems the evidence so warrants, issue an order requiring such
72 person to testify or produce documents or otherwise comply with the requirements of the Committee, as the case may require.

73 Refusal to comply with the order of the Court shall constitute contempt of Court;

74 (c) Where the Committee assigns the matter to a hearing officer, the hearing officer shall decide the matter and prepare a report
75 containing findings of fact, and conclusions of law, within sixty (60) days of the hearing, and shall transmit the report, with the full
76 record of the hearing, to the Committee.

77 (d) The Committee may accept, reject, or modify the hearing officer's final report, and shall notify the parties of its action by
78 certified mail, return receipt requested.

79 (e) If the Committee elects to hear the matter directly and not to assign it to a hearing officer, it shall issue its final decision
80 containing findings of fact and conclusions of law, within sixty (60) days of the hearing, and shall notify the parties of its action by
81 certified mail, return receipt requested.

82 (f) The Committee's final action may be appealed to the Superior Court within thirty (30) days after it is mailed to the parties by
83 the Committee. The appeal shall be on the record."

SYNOPSIS

This Act clarifies some issues for the Disability Insurance program for employees covered by the State Employees Pension Plan. Section 1 clarifies the return to work components for those merit and non-merit employees previously on disability. Section 2 clarifies that employees receiving long-term disability benefits will be covered for health insurance as if they were a pensioner.

Author: Senator Cook