

BY: Appropriations Committee

AMENDMENTS TO HOUSE BILL NO. 643

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “prohibiting” in line 4 down through the semicolon in line 7 and substitute “requiring the Board of Trustees to delegate certain authority to the Office of Administrative Hearings; requiring the Medical Board for the Board of Trustees to submit certain recommendations to the Board of Trustees that include certain information regarding individuals applying for an ordinary, accidental, or special disability retirement allowance; authorizing the Board of Trustees to adopt or reject certain recommendations of the Medical Board; requiring the Board of Trustees to remand certain applications to the Medical Board for reconsideration if the Board of Trustees does not adopt certain recommendations by the Medical Board; authorizing certain individuals to appeal certain decisions of the Board of Trustees to the Office of Administrative Hearings; binding the Office of Administrative Hearings by certain legal precedents; providing that certain individuals have to meet a certain level of burden of proof in certain hearings;”; in line 8, strike “a”; in the same line, strike “finding” and substitute “findings”; in the same line, after “fact” insert “and conclusions of law”; strike beginning with “prohibiting” in line 9 down through the semicolon in line 14; in line 18, after “member” insert “or retiree”; and in line 21, after “Article;” insert “requiring the Board of Trustees to adopt certain regulations; requiring the Board of Trustees to submit a certain annual report;”.

On page 2, in line 4, strike “21-703” and substitute “21-704”.

AMENDMENT NO. 2

On page 2, in lines 27 and 30, in each instance, strike the brackets; strike beginning with “THE” in line 30 down through “RETIREMENT” in line 32; and after line 32, insert:

“(C) THE BOARD OF TRUSTEES SHALL DELEGATE TO THE OFFICE OF ADMINISTRATIVE HEARINGS THE AUTHORITY TO CONDUCT A HEARING AND ISSUE THE FINAL ADMINISTRATIVE DECISION IN AN APPEAL OF A DENIAL OF A DISABILITY

(Over)

RETIREMENT ALLOWANCE.”.

AMENDMENT NO. 3

On page 3, strike beginning with “IF” in line 25 down through “OFFICE” in line 28 and substitute:

“(1) THE MEDICAL BOARD UNDER § 21-126 OF THIS TITLE SHALL SUBMIT A DISABILITY REPORT TO THE BOARD OF TRUSTEES THAT INCLUDES THE NAME OF EACH INDIVIDUAL WHO HAS APPLIED FOR AN ORDINARY, ACCIDENTAL, OR SPECIAL DISABILITY RETIREMENT ALLOWANCE UNDER TITLE 29, SUBTITLE 1 OF THIS ARTICLE AND WHO:

(I) IS ELIGIBLE TO RECEIVE AN ORDINARY, ACCIDENTAL, OR SPECIAL DISABILITY RETIREMENT ALLOWANCE;

(II) IS ELIGIBLE TO RECEIVE AN ORDINARY DISABILITY RETIREMENT ALLOWANCE BUT WHO IS NOT ELIGIBLE TO RECEIVE AN ACCIDENTAL OR SPECIAL DISABILITY RETIREMENT ALLOWANCE; OR

(III) IS NOT ELIGIBLE TO RECEIVE AN ORDINARY, ACCIDENTAL, OR SPECIAL DISABILITY ALLOWANCE.

(2) (I) THE BOARD OF TRUSTEES MAY ADOPT THE RECOMMENDATIONS OF THE MEDICAL BOARD UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) IF THE BOARD OF TRUSTEES DOES NOT ADOPT THE RECOMMENDATIONS OF THE MEDICAL BOARD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL REMAND THE INDIVIDUAL’S APPLICATION FOR RECONSIDERATION BY THE MEDICAL BOARD.

(B) (1) IF A MEMBER OR RETIREE IS AGGRIEVED AS A RESULT OF A DECISION OF THE BOARD OF TRUSTEES TO ADOPT A RECOMMENDATION OF THE MEDICAL BOARD THAT RESULTS IN A DENIAL OF A DISABILITY RETIREMENT ALLOWANCE, THE MEMBER OR RETIREE MAY APPEAL THE DECISION OF THE BOARD OF TRUSTEES.

(2) (I) AN APPEAL UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE FILED WITH THE BOARD OF TRUSTEES.

(II) THE BOARD OF TRUSTEES SHALL FORWARD THE APPEAL TO THE OFFICE.

(C) (1) THE OFFICE SHALL DISPOSE OF THE APPEAL OR CONDUCT A HEARING AND ISSUE A DECISION IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) THE OFFICE IS BOUND BY ANY REGULATION, DECLARATORY RULING, PRIOR ADJUDICATION, OR OTHER SETTLED PREEXISTING POLICY OF THE BOARD OF TRUSTEES.

(3) THE PARTY REQUESTING THE APPEAL HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE”;

in line 29, strike “(B)” and substitute “(D)”; in the same line, strike “A WRITTEN FINDING OF FACT” and substitute “WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW”; and in line 31, strike “(A)” and substitute “(B)”.

AMENDMENT NO. 4

On pages 3 and 4, strike in their entirety the lines beginning with line 32 on page 3 through line 16 on page 4, inclusive.

AMENDMENT NO. 5

On page 4, in line 17, after “(E)” insert “(1)”; in the same line, after “SECTION” insert “BY THE OFFICE”; after line 19, insert:

“(2) THE FINAL ADMINISTRATIVE DECISION SHALL INCLUDE ANY DETERMINATION NECESSARY REGARDING A RIGHT TO BENEFITS UNDER TITLE 29, SUBTITLE 1 OF THIS ARTICLE.”;

in line 21, after “MEMBER” insert “, RETIREE, “; after line 24, insert:

“21-704.

THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO ADMINISTER THE PROVISIONS OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Trustees for the State Retirement and Pension System shall submit a report by September 1 of each year to the Joint Committee on Pensions that includes:

(1) the number of recommendations made by the Medical Board that are remanded back by the Board of Trustees for further review;

(2) the number of applicants that receive or are denied disability retirement allowances by the Board of Trustees;

(3) the number of appeals taken to the Office of Administrative Hearings;

(4) the results of each appeal to the Office of Administrative Hearings;

(5) the number of appeals taken to the Circuit Court; and

(6) the results of each appeal taken to the Circuit Court.”;

in lines 25 and 29, strike “2.” and “3.”, respectively, and substitute “3.” and “4.”, respectively; and strike beginning with “any” in line 26 down through “Article” in line 27 and substitute “the denial of a disability retirement allowance”.