

2020 Regular Session

SENATE BILL NO. 444

BY SENATOR FRED MILLS

RETIREMENT SYSTEMS. Provides for the certification of disability by medical psychologists. (7/1/20)

AN ACT

To amend and reenact R.S. 11:218(B), (C), (D), and (E), 219, and 220(A) and (B), relative to disability retirement; to provide relative to application and examination procedures; to provide relative to certification of disability; to provide relative to the State Medical Disability Board; to provide relative to continuing eligibility for disability benefits; to provide with respect to medical psychologists; to authorize medical psychologists to certify disability of retirees for disability benefits; to authorize medical psychologists to certify disability of retirees for continuing eligibility for disability benefits; to include medical psychologists on the State Medical Disability Board; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:218(B), (C), (D), and (E), 219, and 220(A) and (B) are hereby amended and reenacted to read as follows:

§218. Application and examination procedures; certification of disability

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1 B. The applicant's disability case history shall be examined either by that
2 member of the State Medical Disability Board whose area of specialty most closely
3 relates to the nature of the claimed disability or by an outside physician or medical
4 psychologist designated by the board. The examining physician or medical
5 psychologist shall either conduct a medical examination of the applicant, or waive
6 the medical examination if obvious and overwhelming medical evidence of disability
7 exists to his satisfaction. The cost of the examination, including costs of laboratory
8 tests, X-rays, and other such direct examination procedures shall be borne by the
9 applicant's retirement system; however, all nondirect costs such as hospital room and
10 board charges and other such expenses shall be borne by the applicant. The initial
11 examination shall be completed within six weeks of the date of the applicant's filing
12 for benefits.

13 C. The examining physician or medical psychologist shall submit to the
14 appropriate board of trustees an in-depth report which shall include a medical
15 evaluation and his conclusions as to the applicant's claimed disability. Each member
16 of the State Medical Disability Board and any board-designated physician or
17 medical psychologist shall have full authority to certify total disability in those
18 applicants whom he examines. An applicant shall be considered certified as having
19 a total disability if in the in-depth report submitted by the examining physician or
20 medical psychologist to the board of trustees, the physician or medical
21 psychologist declares the applicant to be totally incapacitated for the further
22 performance of his normal duties and states that such incapacity is likely to be
23 permanent. In the case of partial disability, the physician or medical psychologist
24 shall indicate the degree of incapacity.

25 D.(1) Should the examining physician's or medical psychologist's final
26 certification decision be contested by either the applicant or the applicant's board of
27 trustees, the contesting party shall have the right to a second medical examination
28 if a written appeal is filed within thirty days of notification of the certification
29 decision. This second examination shall be performed by a member of the State

1 Medical Disability Board, or by a board-designated physician or medical
2 psychologist and shall be at the expense of the requesting party. The second
3 physician or medical psychologist shall also submit an in-depth report to the
4 applicant's board of trustees which shall include his medical evaluation and
5 conclusions as to the applicant's claimed disability.

6 (2) If the second examining physician or medical psychologist concurs in
7 the findings and recommendations of the first physician or medical psychologist,
8 the first physician's or medical psychologist's original decision on certification shall
9 stand as final and binding and shall not be subject to further appeal other than
10 through the courts.

11 (3) If the second examining physician or medical psychologist disagrees
12 with the findings and recommendations of the first physician or medical
13 psychologist, the two physicians or medical psychologists shall select a third
14 specialist to conduct another examination and prepare and file a third report in the
15 same manner as provided for above. The majority opinion of the three examining
16 physicians or medical psychologists shall be final and binding and not subject to
17 further appeal other than through the courts. The cost of the third medical
18 examination shall be borne by the retirement system of the applicant if he is certified
19 as having a disability, or by the applicant if his disability claim is denied.

20 E. The board of trustees of a state or statewide retirement system shall receive
21 a final and binding disability certification from a member of the State Medical
22 Disability Board, or a board-designated physician, or medical psychologist, and
23 retire an eligible disability applicant within one hundred and twenty days of the
24 applicant's date of filing for disability retirement. Disability benefits shall accrue
25 from the filing date of the application for disability retirement, or from the day
26 following the exhaustion of all sick leave or annual leave claimed by the applicant,
27 whichever is the later.

28 §219. State Medical Disability Board

29 A. The State Medical Disability Board shall be composed of physicians or

1 **medical psychologists** appointed by the board of trustees of each state and statewide
2 retirement system, with each physician **or medical psychologist** serving at the
3 pleasure of the board of trustees that appointed him. Each medical board member
4 shall, according to the provisions of R.S. 11:218, be responsible for either reviewing
5 the medical case histories of or conducting medical examinations of members of any
6 state and statewide retirement systems who apply for disability benefits and for
7 submitting his findings and recommendations to the appropriate boards of trustees.

8 B. The board of trustees of the appropriate system may, at their discretion or
9 upon recommendation of a physician **or medical psychologist** on the State Medical
10 Disability Board, call upon physicians **or medical psychologists** in any area of
11 medical specialty and from any area of the state either to review case histories or to
12 conduct regular or appeal examinations of disability retirement applicants. These
13 alternate physicians **or medical psychologists** shall follow the same procedures and
14 have the same authority as regular members of the medical board under the
15 provisions of R.S. 11:218(D).

16 §220. Certification of continuing eligibility for disability benefits

17 A. Once each year during the first five years following retirement of a
18 member of a state or statewide retirement system on a disability retirement
19 allowance, and once in every three-year period thereafter, the appropriate board of
20 trustees may require any disability beneficiary who has not yet attained the
21 equivalent age of regular retirement to undergo a medical examination, at the
22 beneficiary's expense, such examination to be made at the place of residence of said
23 beneficiary if he is immovable or other place mutually agreed upon, by a physician
24 **or medical psychologist** on the State Medical Disability Board or a
25 board-designated specialist. The examining physician **or medical psychologist** shall
26 submit a report to the board of trustees recommending either the continuation or
27 cessation of the beneficiary's disability status. A contested decision shall be appealed
28 under the procedures described in R.S. 11:218.

29 B. Should any disability beneficiary who has not yet attained the equivalent

