

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative Barclay**

**A BILL ACT 391 OF 1991**  
**HOUSE BILL 1367**

**For An Act To Be Entitled**

8 "AN ACT TO AMEND TITLE 24, CHAPTER 11, SUBCHAPTER 8 OF THE  
9 ARKANSAS CODE OF 1987 TO CLARIFY ACTS 375, 390 AND 391 OF  
10 1989; AND FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. Arkansas Code §24-11-819 is hereby amended to read as  
15 follows:

16 "24-11-819. Benefits - Disability retirement.

17 (a) (1) Any fire fighter who becomes totally and permanently physically  
18 or mentally incapacitated for any suitable duty as an employee as a result of  
19 personal injury or disease may be retired by the board, upon written  
20 application filed by or on behalf of the member, if, after medical examination  
21 of the member made by or under the direction of a physician designated by the  
22 board, the physician reports in writing that the member is physically or  
23 mentally totally incapacitated for the further performance of any suitable  
24 duty, that the incapacity will probably be permanent, and that the fire  
25 fighter should be retired.

26 (2) The benefit amount shall be:

27 (A) If the disabling injury or disease occurred while not  
28 actually performing work in gainful employment for the fire department, the  
29 monthly benefit shall be equal to the benefit paid to normal service  
30 retirants; or

31 (B) (i) For a full-paid fire fighter who is injured in the  
32 line of duty, the monthly disability benefit shall either be equal to sixty-  
33 five percent (65%) of the salary attached to the rank held by the member in  
34 the fire department or shall be equal to the benefit paid to normal service  
35 retirants, whichever is greater.

36 (ii) For purposes of this section, 'injured in the

1 line of duty' means a disabling injury or disease which occurs while  
2 conducting official fire department operations or while in training to become  
3 a fire fighter. The board shall determine whether the disability occurred in  
4 the line of duty, and may require any medical evidence, official reports,  
5 expert testimony, or other information to be supplied by the applicant, in  
6 addition to the required physician's examination and report.

7 (iii) The additional benefits provided herein shall  
8 be effective for all qualifying applications first received by the board on or  
9 after January 1, 1987. The disability benefit provided herein shall continue  
10 to be paid to the fire fighter so long as he is retired and shall not be  
11 reduced to the regular service annuity amount, if less, when he reaches his  
12 normal retirement age.

13 (iv) Upon the death of the retirant, any survivor  
14 benefits shall be based upon the normal service retirement annuity amount.

15 (3) For purposes of computing all benefits, 'salary' means  
16 recurring pays which are received for a regularly scheduled work week and  
17 shall not include payments for unused accrued sick leave or annual leave, or  
18 the cash value of any nonrecurring or unusual remunerations.

19 (4) Any disability benefit approved under this section shall be  
20 effective the first day of the calendar month next following the latter of  
21 either the fire fighter's termination of active membership or six (6) months  
22 before the date the written application was filed with the board.

23 (5) In the event that a fire fighter's disability ceases, his  
24 benefit shall also cease, and he shall be returned to active service at not  
25 less than the same salary he received at the time of his retirement.

26 (6) Any fire fighter retired for reasons of disability who has  
27 more than twenty (20) years of service shall also be entitled to receive any  
28 supplementary benefit for which he would otherwise be qualified under  
29 24-11-818.

30 (b)(1) No person shall be retired as provided in this section or  
31 receive any pension from the fund unless there shall be filed with the board  
32 certificates of his disability, which certificates shall be subscribed and  
33 sworn to by the person and by the city or town physician, if there is one, and  
34 by the firemen's relief and pension fund physician.

35 (2) The board may require other evidence of disability before

1 ordering the retirement and payment as provided in this section.

2 (c) (1) At least once each year during the first five (5) years, or as  
3 often as required by the board following a member's retirement for disability  
4 and at least once each three (3) years thereafter, the board may require any  
5 disability retirant who has not attained the normal retirement age to undergo  
6 a medical examination by or under the direction of a physician or physicians  
7 designated by the board.

8 (2) If the retirant refuses to submit to the medical examination  
9 in any period, his disability annuity may be suspended by the board until he  
10 complies with the provisions of this section.

11 (3) If his refusal continues for one (1) year, all his rights in  
12 and to a disability annuity may be revoked by the board.

13 (4) If, upon such medical examination of the retirant, the  
14 physician reports to the board that the retirant is physically and mentally  
15 able and capable of resuming suitable duty as an employee, his disability  
16 retirement shall terminate."  
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18 SECTION 2. All provisions of this act of a general and permanent nature  
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
20 Revision Commission shall incorporate the same in the Code.  
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22 SECTION 3. If any provision of this act or the application thereof to  
23 any person or circumstance is held invalid, such invalidity shall not affect  
24 other provisions or applications of the act which can be given effect without  
25 the invalid provision or application, and to this end the provisions of this  
26 act are declared to be severable.  
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28 SECTION 4. All laws and parts of laws in conflict with this act are  
29 hereby repealed.  
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33 APPROVED: 3-7-91  
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