

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

A Bill

HOUSE BILL

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.

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

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

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

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

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

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

27 (6) Any fire fighter retired for reasons of disability who has
28 more than twenty (20) years of service shall also be entitled to receive any
29 supplementary benefit for which he would otherwise be qualified under
30 24-11-818.

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

1 (2) The board may require other evidence of disability before
2 ordering the retirement and payment as provided in this section.

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

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

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

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