

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 1236

4
5 By: Representative Judy
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For An Act To Be Entitled

9 AN ACT TO PROVIDE THAT FIREFIGHTERS WITH CERTAIN
10 DISEASES WILL BE PRESUMED TO HAVE BEEN INJURED IN
11 THE LINE OF DUTY FOR DISABILITY RETIREMENT
12 BENEFITS UNDER THE LOCAL POLICE AND FIRE
13 RETIREMENT SYSTEM AND UNDER FIRE PENSION FUNDS;
14 AND FOR OTHER PURPOSES.

Subtitle

15
16 TO PROVIDE THAT FIREFIGHTERS WITH
17 CERTAIN DISEASES WILL BE PRESUMED TO
18 HAVE BEEN INJURED IN THE LINE OF DUTY
19 FOR DISABILITY RETIREMENT BENEFITS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 24-10-607(c)(1), concerning the disability
26 benefits for members of the Local Police and Fire Retirement System, is
27 amended to read as follows:

28 (c)(1)(A)(i) Any active member who becomes totally and permanently
29 physically or mentally incapacitated for any suitable duty as an employee as
30 the result of a personal injury or disease which the board finds to have
31 arisen out of, and in the course of, his or her actual performance of duty as
32 an employee may be retired by the board upon written application filed with
33 the board by or on behalf of the member.

34 (ii)(a) As used in this subdivision

35 (c)(1)(A)(ii) of this section:

36 (1)(A) "Blood or body fluids" means



1 blood and body fluids containing visible blood and other body fluids to which
 2 universal precautions for prevention of occupational transmission of blood-
 3 borne pathogens, as established by the Centers for Disease Control, apply;
 4 and

5 (B) Includes respiratory,
 6 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and
 7 any other fluid through which infectious airborne or blood-borne organisms
 8 can be transmitted between persons for the purpose of determining the
 9 potential transmission of hepatitis, meningococcal meningitis, HIV, or
 10 tuberculosis;

11 (2) "Hepatitis" means hepatitis A,
 12 hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other
 13 strain of hepatitis generally recognized by the medical community;

14 (3) "HIV" means the medically recognized
 15 retrovirus known as human immunodeficiency virus, type I or type II, causing
 16 immunodeficiency syndrome; and

17 (4) "Occupational exposure" means, in
 18 the case of hepatitis, meningococcal meningitis, HIV, or tuberculosis, an
 19 exposure that occurs during the performance of job duties that places a fire
 20 fighter at risk of infection.

21 (b) A fire fighter in paid service who becomes
 22 totally or permanently incapacitated for any suitable duty as an employee
 23 from a condition or impairment of health caused by hepatitis, meningococcal
 24 meningitis, HIV, or tuberculosis shall be presumed to have suffered the
 25 condition or impairment as one arising out of, and in the course of, the fire
 26 fighter's actual performance of duty as an employee unless the contrary is
 27 shown by medical evidence.

28 (c) The presumption under subdivision
 29 (c)(1)(A)(ii)(b) of this section is conditioned on the fire fighter:

30 (A) Having successfully passed a
 31 physical examination before entering into employment and the examination
 32 failing to reveal any evidence of the hepatitis, meningococcal meningitis,
 33 HIV, or tuberculosis; and

34 (B) Having a documented occupational
 35 exposure to blood or bodily fluids potentially transmitting hepatitis,
 36 meningococcal meningitis, HIV, or tuberculosis.

1 (B) The employee shall be retired only if, after a medical
2 examination of the member made by or under the direction of a physician or
3 physicians designated by the board, the physician reports to the plan in
4 writing that the member is physically or mentally totally incapacitated for
5 the further performance of any suitable duty, that the incapacity will
6 probably be permanent, and that the member should be retired.

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8 SECTION 2. Arkansas Code § 24-11-819(a)(2)(B)(ii), concerning the
9 disability retirement benefits for full-paid fire fighters under a firemen's
10 pension and relief fund, is amended to read as follows:

11 (ii)(a) ~~For~~ Except as presumed under subdivision
12 (a)(2)(B)(ii)(c)(2) of this section, for purposes of this section, "injured
13 in the line of duty" means a disabling injury or disease that occurs while
14 conducting official fire department operations or while in training to become
15 a fire fighter.

16 (b) The board shall determine whether the
17 disability occurred in the line of duty and may require any medical evidence,
18 official reports, expert testimony, or other information to be supplied by
19 the applicant in addition to the required physician's examination and report.

20 (c)(1) As used in this subdivision
21 (a)(2)(B)(ii)(c) of this section:

22 (A)(i) "Blood or body fluids"
23 means blood and body fluids containing visible blood and other body fluids to
24 which universal precautions for prevention of occupational transmission of
25 blood-borne pathogens, as established by the Centers for Disease Control,
26 apply; and

27 (ii) Includes respiratory,
28 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and
29 any other fluid through which infectious airborne or blood-borne organisms
30 can be transmitted between persons for the purpose of determining the
31 potential transmission of hepatitis, meningococcal meningitis, HIV, or
32 tuberculosis;

33 (B) "Hepatitis" means hepatitis A,
34 hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other
35 strain of hepatitis generally recognized by the medical community;

36 (C) "HIV" means the medically

1 recognized retrovirus known as human immunodeficiency virus, type I or type
2 II, causing immunodeficiency syndrome; and

3 (D) "Occupational exposure" means,
4 in the case of hepatitis, meningococcal meningitis, HIV, or tuberculosis, an
5 exposure that occurs during the performance of job duties that places a fire
6 fighter at risk of infection.

7 (2) A full-paid fire fighter who becomes
8 disabled or injured by hepatitis, meningococcal meningitis, HIV, or
9 tuberculosis shall be presumed to have been injured in the line of duty
10 unless the contrary is shown by medical evidence.

11 (3) The presumption under subdivision
12 (a)(2)(B)(ii)(c)(2) of this section is conditioned on the fire fighter:

13 (A) Having successfully passed a
14 physical examination before entering into employment and the examination
15 failing to reveal any evidence of the hepatitis, meningococcal meningitis,
16 HIV, or tuberculosis; and

17 (B) Having a documented occupational
18 exposure to blood or bodily fluids potentially transmitting hepatitis,
19 meningococcal meningitis, HIV, or tuberculosis.

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