

ARKANSAS SENATE
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of Senate Bill No. 237

"TO PROVIDE THAT POLICE OFFICERS AND FIREFIGHTERS WITH CERTAIN
DISEASES WILL BE PRESUMED TO HAVE BEEN INJURED IN THE LINE OF DUTY FOR
DISABILITY RETIREMENT BENEFITS."

Amendment No. 1 to Senate Bill No. 237.

Amend Senate Bill No. 237 as originally introduced:

Page 1, delete everything after the Enacting Clause and substitute the following:

"SECTION 1. Arkansas Code § 24-10-607(c), concerning disability retirement under the Arkansas Local Police and Fire Retirement System, is amended to read as follows:

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

(ii)(a) As used in this subdivision (c)(1)(A)(ii):

(1)(A) "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply.

(B) "Blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucus, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons for the purpose of determining the potential transmission of hepatitis, meningococcal meningitis, HIV, or tuberculosis;

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

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

(4) "Occupational exposure" means, in



the case of hepatitis, meningococcal meningitis, HIV, or tuberculosis, an exposure that occurs during the performance of job duties that places a police officer or firefighter at risk of infection.

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

(c) The presumption under subdivision (c)(1)(A)(ii)(b) of this section is conditioned on the police officer or firefighter:

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

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

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

(2)(A) Except as provided in subdivision (c)(2)(B) of this section, the written application that is to be filed with the board by the member or on behalf of the member shall be made to the board not later than one (1) year after the termination of active membership.

(B) If the application is based on a presumed duty disability under subdivision (c)(1)(A)(ii) of this section, then a written application shall be made to the board not later than five (5) years after the termination of active membership.

~~(2)(3)~~ A written application to the board by the member or former member or on behalf of the member shall be filed with the board not later than one (1) year after the termination of active membership.

~~(3)(4)~~ The disability annuity shall be effective the first day of the calendar month next following the later of:

(A) His or her termination of active membership; or

(B) Six (6) months before the date the written application is filed with the board.

SECTION 2. Arkansas Code § 24-11-423(a)(1)(C), concerning benefits for disability retirement under local policemen's pension and relief funds, is amended to read as follows:

(C)(i) If, however, a police officer is injured in the line of duty, the monthly disability benefit shall either be equal to sixty-five percent (65%) of the salary attached to the rank held by the member in the police department or shall be equal to the benefit paid to normal service retirants, whichever is greater.

(ii) ~~For~~ Except as provided under subdivision (a)(1)(C)(iii)(c)(1) of this section, for purposes of this section, "injured in the line of duty" means a disabling injury or disease which occurs while conducting official police department operations or while in training to become a police officer.

(iii)(a) The board shall determine whether the disability occurred in the line of duty and may require any medical evidence, official reports, expert testimony, or other information to be supplied by the applicant in addition to the required physician's examination. The additional benefits provided in this subdivision (a)(1)(C) shall be effective for all qualifying applications first received by the board on or after January 1, 1987.

(b) As used in this subdivision

(a)(1)(C)(iii):

(1)(A) "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply.

(B) "Blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucus, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons for the purpose of determining the potential transmission of hepatitis, meningococcal meningitis, HIV, or tuberculosis;

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

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

(4) "Occupational exposure" means, in the case of hepatitis, meningococcal meningitis, HIV, or tuberculosis, an exposure that occurs during the performance of job duties that places a police officer at risk of infection.

(c)(1) A member of a police department who becomes disabled or injured by hepatitis, meningococcal meningitis, HIV, or tuberculosis shall be presumed to have been injured in the line of duty unless the contrary is shown by medical evidence.

(2) The presumption under subdivision (a)(1)(C)(iii)(c)(1) of this section is conditioned on the police officer having successfully passed a physical examination before entering into employment and the examination failing to reveal any evidence of the hepatitis, meningococcal meningitis, HIV, or tuberculosis.

SECTION 3. Arkansas Code § 24-11-819(a)(2)(B)(ii), concerning benefits for disability retirement under local firemen's pension and relief funds, is amended to read as follows:

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

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

(c)(1) As used in this subdivision

(a)(2)(B)(ii)(c):

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

(ii) "Blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucus, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons for the purpose of determining the potential transmission of hepatitis, meningococcal meningitis, HIV, or tuberculosis;

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

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

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

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

(3) The presumption under subdivision (a)(2)(B)(ii)(c)(2) of this section is conditioned on the firefighter having successfully passed a physical examination before entering into employment and the examination failing to reveal any evidence of the hepatitis, meningococcal meningitis, HIV, or tuberculosis."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Elliott

MMC/RCK - 02-12-2009 15:33

MMC169

Secretary