

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S2/18/09

A Bill

SENATE BILL 237

5 By: Senator Elliott
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For An Act To Be Entitled

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

Subtitle

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

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

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



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

5 (B) "Blood or body fluids"
6 includes respiratory, salivary, and sinus fluids, including droplets, sputum,
7 saliva, mucus, and any other fluid through which infectious airborne or
8 blood-borne organisms can be transmitted between persons for the purpose of
9 determining the potential transmission of hepatitis, meningococcal
10 meningitis, HIV, or 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
20 police officer or firefighter at risk of infection.

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

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

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

35 (2) Having a documented occupational
36 exposure to blood or bodily fluids potentially transmitting hepatitis,

1 meningococcal meningitis, HIV, or tuberculosis.

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

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

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

17 ~~(2)(3)~~ A written application to the board by the member or
18 former member or on behalf of the member shall be filed with the board not
19 later than one (1) year after the termination of active membership.

20 ~~(3)(4)~~ The disability annuity shall be effective the first day
21 of the calendar month next following the later of:

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

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

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

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

34 (ii) ~~For~~ Except as provided under subdivision
35 (a)(1)(C)(iii)(c)(1) of this section, for purposes of this section, "injured
36 in the line of duty" means a disabling injury or disease which occurs while

1 conducting official police department operations or while in training to
2 become a police officer.

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

10 (b) As used in this subdivision

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

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

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

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

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

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

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

36 (2) The presumption under subdivision

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

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

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

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

18 (c)(1) As used in this subdivision
 19 (a)(2)(B)(ii)(c):

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

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

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

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

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

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

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

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15 /s/ Elliott
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