

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2289

By: Roberts of the House

and

Monson and Capps of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 1991, Section 49-110, as amended by Section 2, Chapter 353, O.S.L. 1993 (11 O.S. Supp. 1997, Section 49-110), which relates to disability; imposing responsibility for certain treatment upon municipalities; authorizing judicial determinations regarding presumptions; authorizing reimbursement; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 1991, Section 49-110, as amended by Section 2, Chapter 353, O.S.L. 1993 (11 O.S. Supp. 1997, Section 49-110), is amended to read as follows:

Section 49-110. A. No ~~fire fighter~~ firefighter shall be retired, as provided in Section 49-109 of this title, or receive any pension from the System, unless there shall be filed with the State Board certificates of the ~~fire fighter's~~ firefighter's disability. Any member of the fire department of any municipality who is disabled as a result of heart disease, injury to the respiratory system or the existence of any cancer which heart disease, injury to the respiratory system or cancer was not revealed by the physical examination passed by the member upon entry into the department, shall be presumed to have incurred the heart disease, injury to the respiratory system or cancer while performing the ~~fire fighter's~~ firefighter's duties as a member of

such department unless the contrary is shown by competent evidence.

B. Medical treatment based on the presumptions prescribed by subsection A of this section shall be provided by the municipality as a job-related illness until a court of competent jurisdiction determines that the presumption does not apply. If it is subsequently determined that the illness is not job-related, the workers' compensation provider shall be reimbursed for expenditures made for health care services by the medical plan or benefit provided by the municipality for the employee.

C. If any such member fails to submit evidence of a physical examination prior to entry into the fire department, there shall be no presumption the heart disease, injury to the respiratory system or cancer was incurred while performing the ~~fire fighter's~~ firefighter's official duties and it shall be the duty of the State Board to determine if the heart disease, injury to the respiratory system or cancer was incurred while performing the member's official duties.

D. Whenever a participating municipality on behalf of a member or a member applies for a disability benefit, the application shall be accompanied by proof of injury unless otherwise provided and medical evidence supporting the existence of a disability, certified by the member's or municipality's physician, that the member is unable to perform the duties of a ~~fire fighter~~ firefighter. Should the application be made by a municipality, the member may submit medical evidence or reports from the member's physician to the local board. If both the municipality's physician and the member's physician certify to the disability, the local board shall act upon the application.

E. In regards to applications made by either an individual member or a municipality, should the physicians disagree, or if there is only one physician statement, the local board shall be required to have all the medical records concerning the applicant's disability reviewed by a physician selected by the local board and, if required by the reviewing physician, the local board shall have the member examined. The local board shall act

upon all the physician's statements. Local board physician examinations and certifications shall be paid by the State Board and shall be limited to only those conditions upon which the member or the municipality on behalf of the member is requesting a disability.

F. If the State Board deems appropriate, an independent physician may be selected by the State Board to review medical records and examine the member. The physicians selected by the State Board shall submit a report and recommendation to the State Board. The local board may request assistance from the State Board in selecting a physician. Final determination on all disability applications shall rest solely with the State Board.

SECTION 2. This act shall become effective July 1, 1998.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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