

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2309

By: Stites

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2001, Section 49-110, which relates to disability; making certain disabilities retroactive for purposes of benefits; amending 11 O.S. 2001, Section 49-116, which relates to physical examinations; modifying provisions related to procedures for examination; authorizing approval of entrance date; modifying provisions related to authority of Board regarding applications containing false information; 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. 2001, Section 49-110, is amended to read as follows:

Section 49-110. A. No 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 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, infectious disease, or the existence of any cancer which heart disease, injury to the respiratory system, infectious disease, 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, infectious disease, or cancer while performing the firefighter's duties as a member of such department unless the contrary is shown by competent evidence. As

used in this section, "infectious disease" means hepatitis, human immunodeficiency virus, meningitis and tuberculosis. Effective November 10, 1999, the provisions of this subsection relating to infectious disease shall apply to those persons who qualify for retirement under such disability.

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, infectious disease, or cancer was incurred while performing the 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, infectious disease, 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 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. AMENDATORY 11 O.S. 2001, Section 49-116, is amended to read as follows:

Section 49-116. A. All persons being considered for a position of a paid ~~fire fighter~~ firefighter shall pass the required pre-employment offer physical performance/agility test based on standards established by the State Board; provided that the time between the administration of the physical performance/agility test and application for membership in the System is less than twelve (12) months, provided further that a volunteer firefighter who passes an agility test at the time he or she is enrolled as a firefighter in a combination paid and volunteer fire department shall not be required to take a second agility test at the time of appointment as a paid firefighter in the same fire department.

B. The State Board shall require that any ~~person~~ candidate applying for entrance as a member of the System, who has been offered a position of a paid ~~fire-fighter~~ firefighter and before entering the employment of a participating municipality as a paid ~~fire-fighter~~ firefighter, must successfully complete a physical examination, as promulgated by the administrative rules ~~of~~ established by the State Board, in order to participate and qualify to receive any benefits from the System; provided that when the System receives all the information necessary for entrance into the System, including written notice from the System's physician that the candidate has met the minimum medical requirements for entrance, the Executive Director shall have the authority to approve an entrance date for the candidate no earlier than the date all the necessary information for entrance is received or the actual hire date whichever is later; provided that the time between the administration of the physical examination and application for membership in the System is less than six (6) months. All candidates shall be of good moral character, free from deformities, mental or physical conditions, disease and alcohol or drug addiction, which would prohibit a candidate from performing duties as a ~~fire-fighter~~ firefighter. The State Board shall have the ~~final determination upon all applications for membership in the System~~ authority to deny or revoke the membership of a candidate submitting false information in such candidate's membership application and shall have final authority in determining eligibility for membership pursuant to the provisions of this article. This subsection shall not apply to any person who terminates employment with a participating municipality as a paid ~~fire-fighter~~ firefighter and is reemployed by the participating municipality or employed by another participating municipality within six (6) months of such termination, unless such person was terminated for medical reasons.

C. Any person retired for disability under this article may be summoned before the State Board herein provided for, any time hereafter, and shall submit ~~himself~~ thereto for examination as to ~~his~~ fitness for duty, and shall abide the decision and order of the State Board with reference thereto; and all members of the fire department, who may be retired under the provisions of this article, shall report to some physician designated by the State Board when so retired, as required by the State Board.

SECTION 3. Section 2 of this act shall become effective July 1, 2002.

SECTION 4. 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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