

EHB 2309

THE STATE SENATE
Tuesday, April 9, 2002

ENGROSSED

House Bill No. 2309

As Amended

ENGROSSED HOUSE BILL NO. 2309 - By: STITES and BRADDOCK of the House and MORGAN of the Senate.

[Oklahoma Firefighters Pension and Retirement System - amending 11 O.S., Sections 49-110 and 49-116 - disability - physical examinations - false information - effective date - emergency]

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

1 department unless the contrary is shown by competent evidence. As
2 used in this section, "infectious disease" means hepatitis, human
3 immunodeficiency virus, meningitis and tuberculosis. Effective
4 November 10, 1999, the provisions of this subsection relating to
5 infectious disease shall apply to those persons who qualify for
6 retirement under such disability.

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

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

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

12 E. In regards to applications made by either an individual
13 member or a municipality, should the physicians disagree, or if
14 there is only one physician statement, the local board shall be
15 required to have all the medical records concerning the applicant's
16 disability reviewed by a physician selected by the local board and,
17 if required by the reviewing physician, the local board shall have
18 the member examined. The local board shall act upon all the
19 physician's statements. Local board physician examinations and
20 certifications shall be paid by the State Board and shall be limited
21 to only those conditions upon which the member or the municipality
22 on behalf of the member is requesting a disability.

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

8 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-116, is
9 amended to read as follows:

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

21 B. The State Board shall require that any ~~person~~ candidate
22 applying for entrance as a member of the System, who has been
23 offered a position of a paid ~~fire-fighter~~ firefighter and before

1 entering the employment of a participating municipality as a paid
2 ~~fire fighter~~ firefighter, must successfully complete a physical
3 examination, as promulgated by the administrative rules ~~of~~
4 established by the State Board, in order to participate and qualify
5 to receive any benefits from the System; provided that when the
6 System receives all the information necessary for entrance into the
7 System, including written notice from the System's physician that
8 the candidate has met the minimum medical requirements for entrance,
9 the Executive Director shall have the authority to approve an
10 entrance date for the candidate no earlier than the date all the
11 necessary information for entrance is received or the actual hire
12 date whichever is later; provided that the time between the
13 administration of the physical examination and application for
14 membership in the System is less than six (6) months. All
15 candidates shall be of good moral character, free from deformities,
16 mental or physical conditions, disease and alcohol or drug
17 addiction, which would prohibit a candidate from performing duties
18 as a ~~fire fighter~~ firefighter. The State Board shall have the ~~final~~
19 ~~determination upon all applications for membership in the System~~
20 authority to deny or revoke the membership of a candidate submitting
21 false information in such candidate's membership application and
22 shall have final authority in determining eligibility for membership
23 pursuant to the provisions of this article. This subsection shall

1 not apply to any person who terminates employment with a
2 participating municipality as a paid ~~fire fighter~~ firefighter and is
3 reemployed by the participating municipality or employed by another
4 participating municipality within six (6) months of such
5 termination, unless such person was terminated for medical reasons.

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

14 SECTION 3. Section 2 of this act shall become effective July 1,
15 2002.

16 SECTION 4. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-3-02 - DO
21 PASS, As Amended.