



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2602

Introduced 2/20/2009, by Rep. Kevin A. McCarthy

SYNOPSIS AS INTRODUCED:

40 ILCS 5/6-153	from Ch. 108 1/2, par. 6-153
40 ILCS 5/6-154	from Ch. 108 1/2, par. 6-154
40 ILCS 5/6-159	from Ch. 108 1/2, par. 6-159
40 ILCS 5/6-227 new	
30 ILCS 805/8.33 new	

Amends the Chicago Firefighters Article of the Illinois Pension Code. Requires that a disabled fireman who is receiving a duty, occupational disease, or ordinary disability benefit be examined on a periodic basis as determined by the Board, but at least once a year (was, at least once a year). Provides that if a fireman refuses to submit to such medical, surgical, or hospital treatment as is reasonably essential to promote his recovery from disability, he shall have no further right to receive the benefit. Provides a window during which a fireman who re-entered service and failed to repay his refund within the required 2-year period may repay the refund. Provides that a fireman who has failed to repay any refund due to the Fund after re-entering service shall be treated as a new employee and shall only receive service credit from the date that he has re-entered service as a new employee. Provides that, in those cases where the injury or death for which a disability or death benefit is payable was caused under circumstances creating a legal liability on the part of some person or entity to pay damages to the fireman, then legal proceedings may be taken against such other person or entity to recover damages notwithstanding the Fund's payment of or liability to pay disability or death benefits. Provides that the Fund may join in any action brought by the disabled fireman or his personal representative. Amends the State Mandates Act to require implementation without reimbursement.

LRB096 09050 AMC 19190 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing
5 Sections 6-153, 6-154, and 6-159 and by adding Section 6-227 as
6 follows:

7 (40 ILCS 5/6-153) (from Ch. 108 1/2, par. 6-153)

8 Sec. 6-153. Proof of duty, occupational disease, or
9 ordinary disability shall be furnished to the Board by at least
10 one licensed and practicing physician appointed by the Board.
11 In cases where the Board requires the applicant to obtain a
12 second opinion, the applicant may select a physician from a
13 list of qualified licensed and practicing physicians which
14 shall be established and maintained by the board. The Board may
15 require other evidence of disability. A disabled fireman who is
16 receiving a duty, occupational disease, or ordinary disability
17 benefit shall be examined on a periodic basis as determined by
18 the Board, but at least once a year, by one or more licensed
19 and practicing physicians appointed by the board; however such
20 ~~annual~~ examination may be waived by the Board if the appointed
21 physician certifies in writing to the Board that the disability
22 of the fireman is of such a nature as to render him permanently
23 disabled and unable ever to return to service.

1 When the disability ceases, the Board shall discontinue
2 payment of the benefit and the fireman shall be returned to
3 service in his proper rank or grade.

4 (Source: P.A. 86-273.)

5 (40 ILCS 5/6-154) (from Ch. 108 1/2, par. 6-154)

6 Sec. 6-154. Administration of disability benefits. If a
7 fireman who is granted any type of disability benefit under
8 this Article refuses to submit to examination by any physician
9 appointed by the board or refuses to submit to such medical,
10 surgical, or hospital treatment as is reasonably essential to
11 promote his recovery from disability, he shall have no further
12 right to receive the benefit.

13 A fireman who has withdrawn while disabled and entered upon
14 annuity, and who re-enters the service on or after the date of
15 withdrawal, and who has not served at least one year subsequent
16 to the date of such re-entry, shall not receive ordinary
17 disability benefit in excess of the amount he has previously
18 received as pension on account of disability, or as annuity,
19 for an equal period of disability. This provision shall apply
20 throughout the duration of any disability incurred by the
21 fireman within one year after his reinstatement resulting from
22 any cause other than the performance of an act or acts of duty.

23 No disability benefit shall be paid on account of any form
24 of disability for any period of time for which a disabled
25 fireman has a right to receive any part of his salary, under

1 any law or ordinance in effect in the city.

2 If a disabled fireman receives compensation from the city
3 for such disability under the Workers' Compensation Act or
4 Occupational Diseases Act, the disability benefit provided
5 herein shall be reduced by any amount so received, if such
6 amount is less than the amount of the benefit; and if the
7 amount received as compensation exceeds the amount of the
8 disability benefit, the fireman shall not receive such
9 disability benefit until the benefit payable, accumulated at
10 the rate herein stated, equals the amount of such compensation
11 without consideration of interest.

12 If the widow, child or children, or parent or parents (or
13 any of these persons) of any fireman whose death results from
14 an act or acts of duty receives any compensation from the city
15 under the Workers' Compensation Act or Occupational Diseases
16 Act, the annuities herein provided for such beneficiaries shall
17 be reduced by any amounts so received, if such amounts are less
18 than the amount of the annuity or annuities. If the amount or
19 amounts received as compensation exceed the amount or amounts
20 of the annuity or annuities for the widow, child or children,
21 or parent or parents, the annuities shall not be payable until
22 the accumulated value of the annuity or annuities at the rate
23 herein stated equals the amount of such compensation without
24 consideration of interest. In making such adjustment, the
25 annuity to the widow shall first be reduced.

26 Disability pension or disability benefit shall not be paid

1 to any fireman while he resides outside the State of Illinois,
2 unless such residence is by permission of the board.

3 (Source: P.A. 81-992.)

4 (40 ILCS 5/6-159) (from Ch. 108 1/2, par. 6-159)

5 Sec. 6-159. Refund - Re-entry into service - Repayment of
6 refund. A fireman who receives a refund, and who subsequently
7 re-enters the service, shall not thereafter receive, nor shall
8 his widow or parent or parents receive, any annuity, benefit or
9 pension under this Article unless he or his widow, or parent or
10 parents, repays the refund within 2 years after the date of
11 re-entry into service or by January 1, 2011 ~~2000~~, whichever is
12 later, with interest at the rate of 4% per annum, compounded
13 annually, from the date the refund was received to the date
14 such amount is repaid. The change made in this Section by this
15 amendatory Act of 1995 applies without regard to whether the
16 fireman was in service on or after the effective date of this
17 amendatory Act of 1995.

18 A fireman who has failed to repay any refund due to the
19 Fund under this Article after re-entering service shall be
20 treated as a new employee and shall only receive service credit
21 from the date that he has re-entered service as a new employee.

22 (Source: P.A. 89-136, eff. 7-14-95.)

23 (40 ILCS 5/6-227 new)

24 Sec. 6-227. Action by Fund against third party;

1 subrogation. In those cases where the injury or death for which
2 a disability or death benefit is payable under this Article was
3 caused under circumstances creating a legal liability on the
4 part of some person or entity to pay damages to the fireman,
5 then legal proceedings may be taken against such other person
6 or entity to recover damages notwithstanding the Fund's payment
7 of or liability to pay disability or death benefits under this
8 Code. In such case, however, if the action against such other
9 person or entity is brought by the injured fireman or his
10 personal representative and judgment is obtained and paid, or
11 settlement is made with such other person or entity, either
12 with or without suit, from the amount received by such fireman
13 or personal representative there shall be paid to the Fund the
14 amount of money representing the death or disability benefits
15 paid or to be paid to the disabled fireman pursuant to the
16 provisions of this Code. In all circumstances where the action
17 against a person or entity is brought by the disabled fireman
18 or his personal representative the Fund shall have a claim or
19 lien upon any judgment or award out of which the disabled
20 fireman or his personal representative might be compensated
21 from such person or entity.

22 Where action is brought by the disabled fireman or his
23 personal representative they shall forthwith notify the Fund by
24 personal service or registered mail, of such fact and of the
25 name of the court in which such suit is brought, filing proof
26 of such notice in such action. The Fund may, at any time

1 thereafter, join in said action upon its own motion, and proper
2 orders of court after hearing and judgment shall be made for
3 the protection of the Fund. No release or settlement of claim
4 for damages by reason of injury to the disabled fireman, and no
5 satisfaction of judgment in such proceedings, shall be valid
6 without the written consent of the Board of Trustees authorized
7 by this Code to administer the Fund created under this Article,
8 except that such consent shall not be required where the Fund
9 has been fully indemnified or protected by Court order.

10 Where the disabled fireman or his personal representative
11 fail to institute a proceeding against such person or entity at
12 any time prior to 3 months before said action would be barred
13 at law, the Fund may, in its own name or in the name of the
14 personal representative, commence a proceeding against such
15 other person or entity for the recovery of damages on account
16 of injuries caused to the fireman. From any amount so
17 recovered, the Fund shall pay to the personal representative of
18 such disabled fireman all sums collected from such other person
19 or entity by judgment or otherwise in excess of the amount of
20 disability or death benefits paid or to be paid under this Code
21 to the disabled fireman or his personal representative, and
22 such costs, attorney's fees, and reasonable expenses as may be
23 incurred by the Fund in making the collection or in enforcing
24 such liability.

25 When the amount recovered by the injured fireman, his
26 personal representative, or the Fund in any action brought

1 under this Section is less than the amount of disability or
2 death benefits paid or to be paid to the disabled fireman or
3 his personal representative, the Board of Trustees of the Fund
4 may exercise its discretion and determine an appropriate amount
5 under the circumstances to recoup from any award recovered by
6 judgment or otherwise from a third party.

7 Section 90. The State Mandates Act is amended by adding
8 Section 8.33 as follows:

9 (30 ILCS 805/8.33 new)

10 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
11 of this Act, no reimbursement by the State is required for the
12 implementation of any mandate created by this amendatory Act of
13 the 96th General Assembly.