



## 96TH GENERAL ASSEMBLY

### State of Illinois

#### 2009 and 2010

#### SB1705

Introduced 2/19/2009, by Sen. Kwame Raoul

#### 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 09049 AMC 19189 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.