Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 91

HOUSE BILL 2081

AN ACT

AMENDING SECTION 38-844, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 38-844, Arizona Revised Statutes, is amended to read:

38-844. Requirements for retirement benefits and disability pensions

A. A member shall be eligible for a normal pension upon retirement on or after the member's normal retirement date. Payment of a normal pension shall commence as of the first day of the month following the date of retirement, and the last payment shall be made as of the last day of the month in which the death of the retired member occurs.

B. A member is eligible for an accidental disability pension if the member's employment is terminated by reason of accidental disability. A member is eligible for an ordinary disability pension if the member's employment is terminated before the member's normal retirement date by reason of ordinary disability. A member shall file an application for a disability pension after the disabling incident or within one year after the date the member ceases to be an employee. Timely application for an accidental or ordinary disability pension is a prerequisite to receipt of the pension. Payment of an accidental or ordinary disability pension shall commence as of the first day of the month following the date of retirement or the expiration of a period during which the member is receiving sick leave payments or a temporary disability pension, whichever is later. The last payment shall be made as of the last day of the month in which the death of the retired member occurs, or if disability ceases prior to the member's normal retirement date, the first day of the month in which disability ceases.

C. Notwithstanding any other provision of this section, no member shall qualify for an accidental or ordinary disability pension if the local board determines that the member's disability results from the following:

1. An injury suffered while engaged in a felonious criminal act or enterprise.

2. Service in the armed forces of the United States which entitles the member to a veteran's disability pension.

3. A physical or mental condition or injury that existed or occurred prior to the member's date of membership in the system.

D. Accidental or ordinary disability shall be considered to have ceased and an accidental or ordinary disability pension terminates if the member:

1. Has sufficiently recovered, in the opinion of the local board, based on a medical examination by a doctor or clinic appointed by the local board, to be able to engage in a reasonable range of duties within the member's department and the member refuses an offer of employment by an employer in the system.

2. Refuses to undergo any medical examination requested by the board, provided that a medical examination shall not be required more frequently than once in any calendar year.

E. Subsection D of this section does not apply after a disability pensioner's normal retirement date. The amount of a disability pension shall not be recomputed at a disability pensioner's normal retirement date.

F. An ~~accidental or~~ ordinary disability pension shall be reduced in the period prior to the member's normal retirement date if the member engages in any employment and if the member's income from this employment is greater than the member's pension unreduced by this subsection. The amount of the reduction shall be equal to the difference between the member's income from employment and the member's unreduced pension. The local board shall have the right to suspend payments of an ~~accidental or~~ ordinary disability pension if the disabled member fails to report earned income. Such suspension shall be for the period there is no satisfactory report with restoration of benefits upon acceptance of such report or until the member's normal retirement date, whichever occurs earlier. If, in the opinion of the local board, the reduction provided in this subsection is insufficient to recover monies previously paid to a member, each local board may, in its sole discretion, bring an action to recover any outstanding balance due, notwithstanding any other rights the local board possesses.

G. If accidental or ordinary disability ceases before a retired member attains the member's normal retirement date and the member is reemployed by an employer, the pension payable upon the member's subsequent retirement shall be determined as provided in section 38-849, subsection D.

H. A member shall be eligible for a temporary disability pension if the member's employment is terminated prior to the member's normal retirement date by reason of temporary disability. Payment of a temporary disability pension shall commence as of the first day of the month following the date of disability or the expiration of a period during which the member is receiving compensation and sick leave payments, whichever is later. The last payment shall be made as of the first day of the month in which either the death of the member occurs or the local board deems the member is no longer under temporary disability, whichever first occurs, provided that no more than twelve monthly temporary disability payments shall be made in total to the member.

I. If upon the expiration of a temporary disability pension the local board finds upon application that the member has an accidental or ordinary disability, the member shall be eligible for an accidental or ordinary disability pension, as provided in this section.

APPROVED BY THE GOVERNOR APRIL 16, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2004.