



Commission on Government Forecasting and Accountability

PENSION IMPACT NOTE *103RD General Assembly*

BILL NO: **HB 5264, as amended by SA 002**

May 13, 2024

SPONSOR (S): Kifowit – Sheehan (Martwick)

SYSTEM: Chicago Police

FISCAL IMPACT

The fiscal impact of **HB 5264, as amended by SA 002**, is unknown as the number of Chicago police officers who would be denied a disability benefit without reinstatement as outlined in this bill is not known. A minor impact upon the Chicago Police Pension Fund is expected to the extent that the fund would be required to pay court costs and attorney's fees following a police officer's successful action of administrative review regarding a denied application for ordinary disability benefits or a termination of disability benefits as outlined in the bill.

The Chicago Police fund has not yet responded to requests for information regarding the number of cases pertaining to the circumstances outlined in the bill that have occurred over the last five fiscal years. An updated note will be issued upon receipt of that information.

IMPACT OF SA 002: SA 002 deletes the mandate of disability awards in cases where a police officer is not offered reinstatement after the effective date. In all other respects, SA 002 is identical to SA 001.

SUBJECT MATTER: HB 5264, as amended by SA 002, amends the Chicago Police Article of the Illinois Pension Code to add a presumption of disability for police officers who apply for a disability benefit and are denied reinstatement due to a physical or mental incapacity. The bill also entitles a Chicago police officer to recover court costs and litigation expenses from the fund if the officer prevails in an action for administrative review regarding the fund's denial of an officer's disability benefit. These changes are further detailed in the Comment section below.

COMMENT:*Presumption of Disability for Chicago Police*

Under current law, there is no presumption of disability for Chicago police officers beyond the rebuttable COVID-19 line-of-duty disability presumption, enacted by P.A. 103-0002, effective May 10, 2023. Otherwise, if seeking disability benefits under the Chicago Police Article of the Pension Code, police officers must provide proof of disability, via evidence from a physical examination conducted by at least one licensed and practicing physician appointed by the fund's board. If deemed disabled, the officer must undergo annual physical examinations to monitor the disability. When the disability ceases, disability benefits are discontinued and the officer must return to police service, unless the officer is deemed to be permanently disabled.

HB 5264, as amended by SA 002, makes the following changes pertaining to a presumption of disability benefits amidst non-reinstatement to active-duty:

- Police officers who apply for a disability benefit and are denied reinstatement due to a physical or mental incapacity are presumed disabled, making such officers eligible for a disability benefit.
- Police officers who otherwise meet the requirements for a disability benefit cannot be denied said benefit unless reinstated or offered a limited-duty position.

The type of disability benefit that an officer would be eligible for under this presumption is dependent on the circumstances by which the officer became disabled. Below are the three levels of disability benefits currently payable under the Chicago Police Article:

- Duty disability; equal to 75% of salary at the time of disability.
- Occupational disease disability; equal to 65% of salary at the time of disability.
- Ordinary disability; equal to 50% of salary at the time of disability.

Recovering Court Costs Following a Prevailing Action for Administration Review

Under current law, a Chicago police officer who prevails in an administrative review proceeding stemming from a denial of disability benefits is entitled to collect court costs, litigation expenses, and reasonable attorney's fees connected to such litigation, but only in cases of duty disability or occupational disease disability benefits.

Recovery of Court Costs After Denial of Disability Application

HB 5264, as amended by SA 002, adds ordinary disability benefits to the provision described above. This addition would mean that a Chicago police officer who brings an action for administrative review regarding the denial of his or her application for an ordinary disability benefit and prevails in that action is also entitled to recover court costs and litigation expenses

(including “reasonable attorney’s fees”) from the fund. The bill, as amended, specifies that the foregoing legal fee recovery options are dependent upon the pension board’s disability award decision of denial having been arrived at by a majority vote.

Recovery of Court Costs After Termination of Disability Benefits

HB 5264, as amended by SA 002, also entitles Chicago police officers who prevail in an action for administrative review regarding the fund’s termination of the his or her duty disability benefit, ordinary disability benefit, or an occupational disease disability to recover court costs and litigation expenses (including “reasonable attorney’s fees”) from the pension fund. The bill, as amended, specifies that the foregoing legal fee recovery options are dependent upon the pension board’s disability award decision of termination having been arrived at by a majority vote.

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