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6-1708A

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1 IN THE SENATE

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SENATE BILL NO. 385

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to occupational disability benefits
7 and occupational death benefits in the public em-
8 ployees' retirement system for peace officers and
9 fire fighters; and to requirements for eligibility
10 for disability benefits in the public employees'
11 retirement system."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

13 * Section 1. AS 39.35 is amended by adding a new section to read:

14 Sec. 39.35.405. PRESUMPTION OF OCCUPATIONAL DISABILITY FOR PEACE
15 OFFICERS AND FIRE FIGHTERS. (a) If a peace officer or fire fighter
16 meets the requirements of this section, a condition that impairs the
17 health or causes the death of the peace officer or fire fighter and is
18 caused by a disease of the lungs or respiratory tract, hypertension,
19 hypotension, or disease of the heart is presumed to be a bodily injury
20 sustained, or a hazard undergone, while in the performance and within
21 the scope of the employee's duties.

22 (b) A peace officer or fire fighter meets the requirements of
23 this section if the peace officer or fire fighter

24 (1) has at least three consecutive years credited service
25 as a peace officer or fire fighter; and

26 (2) successfully passed a physical examination at the time
27 the person was hired as a peace officer or fire fighter and the phys-
28 ical examination failed to reveal evidence of the condition; if the
29 person did not undergo a physical examination at the time the person

1 was hired as a peace officer or fire fighter, a physical examination
2 conducted after the person was hired may be substituted, as long as
3 the examination was conducted at least three years before a claim for
4 disability was made.

5 (c) The presumption created in this section is rebuttable by
6 competent evidence.

7 * Sec. 2. AS 39.35.410(d) is amended to read:

8 (d) For peace officers and fire fighters, the monthly amount of
9 an occupational disability benefit is 45 percent of the disabled
10 employee's gross monthly compensation at the time of termination due
11 to disability. For other employees, the [THE] monthly amount of an
12 occupational disability benefit is 40 percent of the disabled em-
13 ployee's gross monthly compensation at the time of termination due to
14 disability.

15 * Sec. 3. AS 39.35.415 is amended to read:

16 Sec. 39.35.415. REEMPLOYMENT OF DISABLED EMPLOYEES. An employee
17 appointed to disability benefits under AS 39.35.400 or 39.35.410 may
18 [SHALL] apply to the division of vocational rehabilitation within 30
19 days of the date disability benefits commence. The employee may
20 [SHALL] be enrolled in a rehabilitation program if the employee meets
21 the eligibility requirements of the division of vocational rehabilita-
22 tion. [UNLESS THE EMPLOYEE DEMONSTRATES CAUSE, BENEFITS SHALL TERMI-
23 NATE AT THE END OF THE FIRST MONTH IN WHICH A DISABLED EMPLOYEE

24 (1) FAILS TO REPORT TO THE DIVISION OF VOCATIONAL REHA-
25 BILITATION;

26 (2) IS CERTIFIED BY THE DIVISION OF VOCATIONAL REHABILITA-
27 TION AS FAILING TO COOPERATE IN A VOCATIONAL REHABILITATION PROGRAM;

28 (3) FAILS TO INTERVIEW FOR A JOB; OR

29 (4) FAILS TO ACCEPT A POSITION OFFERED.]

1 * Sec. 4. AS 39.35.430(b) is amended to read:

2 (b) Except as provided in (g) of this section concerning the
3 amount of a pension to which the survivors of a peace officer or fire
4 fighter are entitled, if [IF] (1) the death of an employee occurs
5 before the employee's retirement and before the employee's normal
6 retirement date, and (2) the proximate cause of death is a bodily
7 injury sustained or a hazard undergone while in the performance and
8 within the scope of the employee's duties, and (3) the injury or
9 hazard is not the proximate result of wilful negligence of the em-
10 ployee, a monthly survivor's pension equal to 40 percent of the em-
11 ployee's monthly compensation in the month in which the employee dies
12 shall be paid to the surviving spouse. If there is no surviving
13 spouse or if the spouse later dies, the monthly survivor's pension
14 shall be paid in equal parts to the dependent children of the em-
15 ployee. On the date the normal retirement of the employee would have
16 occurred if the employee had lived, monthly payments shall equal the
17 monthly amount of the normal retirement benefit to which the employee,
18 had the employee lived and continued employment until the employee's
19 normal retirement date, would have been entitled with an average
20 monthly compensation as existed at death and the credited service to
21 which the employee would have been entitled.

22 * Sec. 5. AS 39.35.430 is amended by adding a new subsection to read:

23 (g) The monthly amount of a survivor's pension for the surviving
24 spouse or dependent children of an employee who was a peace officer or
25 fire fighter at the time of the employee's death is 45 percent of the
26 employee's monthly compensation in the month in which the employee
27 dies.