

**49-12-601 Disability retirement -- Medical examinations -- Reemployment of retirant with a disability -- Cancellation of benefit -- Service credit -- Retirant with a disability engaging in gainful employment -- Reduction of allowance -- Refusal to submit to medical examination.**

- (1) Only members of this system who became eligible for a disability retirement allowance before January 1, 1983, are covered under this section.
- (2)
  - (a) The board may, upon the recommendation of the administrator, require any retirant who has been retired for disability and who has not attained the age of 60 years, to undergo a medical examination by a physician or surgeon, appointed by the board, at the place of residence of the retirant or other place mutually agreed upon.
  - (b) Upon the basis of the examination, the board shall determine whether the retirant with a disability is still incapacitated, physically or mentally, for service under this chapter.
  - (c) If the board determines that the retirant is not incapacitated, the retirement allowance shall be cancelled and the retirant shall be reinstated immediately to a position of the same class as that held by the retirant when retired for disability.
  - (d) If any employing unit is unable to reinstate the retirant, the board shall continue the disability retirement allowance of the retirant until employment is available.
- (3)
  - (a) If a retirant with a disability under this system reenters covered service and is eligible for membership in the retirement system, the retirement allowance shall be cancelled and the retirant shall immediately become a member of the retirement system.
  - (b)
    - (i) The member's individual account shall be credited with an amount which is the actuarial equivalent, at the time of reentry, based on a disabled life, of that portion of the member's retirement allowance which was derived from the member's accumulated contributions.
    - (ii) The amount credited may not exceed the amount of accumulated contributions standing at the time of retirement.
  - (c) Each member shall receive credit for the service in the member's account at the time of retirement.
- (4) If the retirement allowance of any retirant with a disability is cancelled for any cause other than reentry into service, the retirant shall be paid the accumulated contributions less the amounts prescribed by Subsection (6).
- (5)
  - (a) If any member retired for disability engages in a gainful occupation prior to attaining age 60, the administrator shall reduce the amount of the retirement allowance to an amount which, when added to the compensation earned monthly by the retirant in that occupation, may not exceed the amount of the final average monthly salary on the basis of which the current service retirement allowance was determined.
  - (b) If the earning capacity of the retirant is further altered, the administrator may further alter the retirement allowance as provided in this Subsection (5).
  - (c) In no event, however, may the retirement benefit be reduced below that portion of the retirant's allowance derived from the retirant's own accumulated contributions.
  - (d) When the retirant reaches age 60, the retirement allowance shall be made equal to the amount upon which the retirant was originally retired and may not again be modified for any cause.
- (6)

- (a) If any member who retired for disability under age 60, refuses to submit to a medical examination, the retirement allowance may be discontinued until the retirant withdraws that refusal.
- (b) If the refusal continues for one year the disability status may be cancelled and membership terminated.
- (c)
  - (i) The retirant's accumulated contribution account shall be the actuarial equivalent on the date of the retirant's change of status, based on a disabled life, of that portion of the disability retirement allowance which was derived from the retirant's accumulated contributions.
  - (ii) The amount credited may not exceed the amount of the retirant's accumulated contributions at the time of disability retirement.

Amended by Chapter 366, 2011 General Session