

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 721

Introduced by Lindstrom, 18.

Read first time January 23, 2019

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to firefighters; to amend section 16-1031,
- 2 Reissue Revised Statutes of Nebraska; to provide for eligibility for
- 3 group health insurance or other insurance coverage to disabled
- 4 firefighters and surviving spouses and dependents of deceased
- 5 firefighters as prescribed; and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 16-1031, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 16-1031 (1) Except as provided in subsection (3) of this section for
4 temporary disability, if any firefighter becomes disabled, such
5 firefighter shall be placed upon the roll of pensioned firefighters at
6 the regular retirement pension of fifty percent of regular pay for the
7 period of such disability. For purposes of this section, disability shall
8 mean the complete inability of the firefighter, for reasons of accident
9 or other cause while in the line of duty, to perform the duties of a
10 firefighter as defined by fire department job descriptions or ordinance.

11 (2) No disability benefit payment shall be made except upon adequate
12 proof furnished to the city, consisting of a medical examination
13 conducted by a competent, disinterested physician who is duly licensed to
14 practice medicine and surgery in this state and who certifies to the city
15 that the firefighter is unable to perform the duties of a firefighter.
16 The city, during the first three years of the payment of such benefits,
17 shall have the right, at reasonable times, to require the disabled
18 firefighter to undergo a medical examination at the city's expense to
19 determine the continuance of the disability claimed. After such three-
20 year period, the city may request the district court to order the
21 firefighter to submit proof of the continuance of the disability claimed
22 if the city has reasonable grounds to believe the firefighter is
23 fraudulently receiving disability payments. The city shall have the right
24 to demand a physical examination of the firefighter by a competent,
25 disinterested physician who is duly licensed to practice medicine and
26 surgery in this state and who is chosen by the city. The expense of such
27 examination shall be borne by the city.

28 (3) In case of temporary disability of a firefighter received while
29 in the line of duty, he or she shall receive his or her salary during the
30 continuance of such disability for a period not to exceed twelve months,
31 except that if it is ascertained by the city within twelve months that

1 such temporary disability has become a disability as defined in this
2 section, then the salary shall cease and he or she shall be entitled to
3 the benefits for pensions in case of disability as provided in this
4 section.

5 (4) All payments of pension or salary provided by this section shall
6 be subject to deduction of amounts paid under the Nebraska Workers'
7 Compensation Act. Total payments to a disabled firefighter, in excess of
8 amounts paid as workers' compensation benefits, shall not be less than
9 the retirement value at the date of disability. If the actuarial
10 equivalent of the disability pension payable under this section exceeds
11 the firefighter's retirement value at the time of the first payment, the
12 city shall contribute such additional amounts as may be necessary, from
13 time to time, to provide for the required disability pension.

14 (5) If a firefighter who was receiving a pension under this section
15 is later determined to be no longer disabled, the pension provided for
16 under this section shall terminate and the firefighter's vested
17 retirement value, as reduced by any disability payments made from the
18 retirement system, shall thereafter be held and administered in the same
19 manner as for any nondisabled firefighter or former firefighter.

20 (6) If a firefighter who was receiving a pension under this section
21 is later determined to be no longer disabled during the first three years
22 when disability benefit payments are being paid, the firefighter may
23 return to duty with the fire department under the following conditions:

24 (a) If a vacancy exists on the fire department for which the
25 firefighter is qualified and the firefighter wishes to return to the fire
26 department, the city shall hire the firefighter to fill the vacancy at a
27 pay grade of not less than his or her previous pay grade; or

28 (b) If no vacancy exists in the fire department and the firefighter
29 wishes to return to the fire department, the city shall place the
30 firefighter on a waiting list and rehire the firefighter at a pay grade
31 of not less than his or her previous pay grade when a vacancy occurs for

1 which the firefighter is qualified.

2 The provisions of this subsection shall not apply to a firefighter
3 whose disability benefit payments are terminated because of fraud on the
4 part of the firefighter.

5 (7)(a) A firefighter or surviving spouse receiving a pension benefit
6 under this section or section 16-1030 or a surviving spouse of a
7 firefighter receiving any benefit due to such firefighter's duty-related
8 death under a home rule charter and any eligible dependents of such
9 firefighter shall be entitled to participate in group health care
10 insurance or other coverage offered by the city or other plan sponsor
11 that provides health insurance to active employees of the fire department
12 from which the disabled or deceased firefighter was placed upon the roll
13 of pensioned firefighters or offered by the city employing the
14 firefighter at the time of his or her death or disability.

15 (b) Eligibility to participate in such group health care insurance
16 or other coverage and premiums or other amounts charged for such
17 insurance or coverage under this subsection shall be on the same terms as
18 if the firefighter remained actively employed for his or her former fire
19 department or city, as applicable. Eligibility to so participate shall
20 cease on the last day of the month in which the disabled firefighter or
21 his or her surviving spouse is eligible for coverage under medicare or
22 reaches an age equivalent to the age for medicare-eligibility under
23 federal law. Dependent eligibility shall end pursuant to the terms of the
24 insurance or other coverage or pursuant to applicable law.

25 Sec. 2. Original section 16-1031, Reissue Revised Statutes of
26 Nebraska, is repealed.