

**S. 484**

(R82, S484)

**AN ACT TO AMEND SECTION 9-11-80, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DISABILITY RETIREMENT FOR MEMBERS OF THE POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO DELETE THE REQUIREMENT THAT CERTAIN MEMBERS BE ELIGIBLE FOR, AND PROVIDE PROOF OF, SOCIAL SECURITY DISABILITY BENEFITS TO CONTINUE TO RECEIVE A DISABILITY RETIREMENT BENEFIT, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 9-11-10, AS AMENDED, RELATING TO DEFINITIONS THAT APPLY TO THE POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO DEFINE "MEDICAL BOARD"; TO AMEND SECTION 9-11-30, AS AMENDED, RELATING TO THE ADMINISTRATION OF THE POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO REQUIRE THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA PUBLIC EMPLOYEE BENEFIT AUTHORITY TO DESIGNATE A MEDICAL BOARD, TO ESTABLISH ITS MEMBERSHIP, AND TO PROVIDE ITS DUTIES; AND TO AMEND ACT 153 OF 2005, RELATING TO THE RETIREMENT SYSTEMS, SO AS TO MAKE CONFORMING CHANGES RELATING TO REFERENCES TO THE MEDICAL BOARD.**

Be it enacted by the General Assembly of the State of South Carolina:

**Requirement for Disability retirement allowance**

SECTION 1. Section 9-11-80 of the 1976 Code, as last amended by Act 278 of 2012, is further amended to read:

"Section 9-11-80. (1) On the application of a member in service or the member's employer, a member who has the years of earned service required for the member's class pursuant to Section 9-11-60(1) or any contributing member who is disabled as a result of an injury arising out of and in the course of the performance of the member's duties regardless of length of membership, may be retired by the retirement board not less than thirty days and not more than nine months next following the date of filing the application on a disability retirement allowance if the system, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. For purposes of this section, a member is considered to be in service on the date the application is filed if the member is not retired and the last day the member was employed by a covered employer in the system occurred not more than ninety days before the date of filing.

The South Carolina Retirement System may contract with the Department of Vocational Rehabilitation to evaluate the medical evidence submitted with the disability application relative to the job being performed and make recommendations to the system. The system may approve a disability retirement subject to the member participating in vocational rehabilitation with the Department of Vocational Rehabilitation. Upon

determination by the department that a member retired on disability is able to reenter the job market and work is available, the retirement system may adjust the benefit paid by the system in accordance with Sections 9-1-1580, 9-1-1590, 9-9-60, and 9-11-90.

(2)(A) Upon disability retirement based upon an application received by the system before January 1, 2014, the member shall receive a disability retirement allowance which shall be equal to a service retirement allowance computed on the basis of his average final compensation, his years of credited service and his accumulated additional contributions at the date of his disability retirement; provided, however, that, at disability retirement, his disability retirement allowance shall be determined on the basis of the number of years of credited service the member would have completed had he remained in service until attaining age fifty-five and on the basis of the average final compensation. For the purpose of calculating the disability retirement allowance, the additional credited service so determined must be either Class One service, Class Two service, or Class Three service depending upon the classification of the member at the time of retirement.

(B) Upon disability retirement based upon an application received by the system after December 31, 2013, the member shall receive a disability retirement allowance which is equal to a service retirement allowance computed on the basis of the member's average final compensation, the member's years of credited service, and the member's accumulated additional contributions at the date of the member's disability retirement. However, at disability retirement, the member's disability retirement allowance must be determined on the basis of the member's average final compensation at retirement and on the basis of the number of years of credited service the member would have completed had the member remained in service until attaining age fifty-five or until attaining twenty-five years of credited service, whichever is less. For the purpose of calculating the disability retirement allowance, the additional credited service so determined must be either Class One service, Class Two service, or Class Three service depending upon the classification of the member at the time of retirement.

(3) Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the board may require any disability beneficiary who has not yet attained the age of fifty-five years to undergo a medical examination, such examination to be made at the place of residence of the beneficiary or other place mutually agreed upon, by the system. If a disability beneficiary who has not yet attained the age of fifty-five years refuses to submit to any such medical examination, the member's retirement allowance may be discontinued until the member's withdrawal of such refusal, and if the refusal continues for one year, all the member's rights in and to the member's retirement allowance may be revoked, but upon revocation any unexpended portion of the member's accumulated contributions to date of retirement shall be returned to the member.

(4) If the system certifies that the member's disability has been removed and that the member has regained earning capacity, the member's disability retirement allowance may be discontinued, or if the disability has been partly removed and the member's earning capacity regained in part, the disability retirement allowance may be reduced proportionately as provided pursuant to Section 9-1-1580. The determination of the board as to any disputed question, after due consideration accorded to the member, is conclusive. If the retirement allowance of any member retired for disability is discontinued or reduced, and if the member again suffers disability within five years of the date of the member's recovery and again loses earning capacity, the member is entitled to apply to the board for a restoration of the original retirement allowance, and the board may restore all or part of the member's original retirement

allowance. At the expiration of the five-year period, if the retirement allowance has not been restored, all rights in and to the member's disability retirement allowance are revoked. The member then is entitled to a deferred early retirement allowance as provided in Section 9-11-70 based upon the member's average final compensation and credited service at the member's date of disability retirement.

(5) After age fifty-five, a disability retiree is subject to the same earnings limitation as a service retiree.

(6) Notwithstanding any other provision of this section, upon retirement for disability after October 15, 1992, at any age, a member must receive a disability retirement allowance equal to at least fifteen percent of his average final compensation."

### **Definition and composition of medical board**

SECTION 2. A. Section 9-11-10(18) of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

"(18) 'Medical board' means the board provided for in Section 9-11-30(2)."

B. Section 9-11-30(2) of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

"(2) The board shall designate a medical board composed of three physicians who are not members of the system. If required, other physicians who are not members of the system may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the system, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the board its conclusions and recommendations upon all matters referred to it."

### **References to medical board**

SECTION 3. Part III, SECTION 6 of Act 153 of 2005, is amended to read:

"SECTION 6. Excluding Chapter 11, in Title 9 of the 1976 Code, wherever the phrase 'medical board' or any variant of 'medical board' appears, it must be construed to mean the 'system' unless the context clearly requires otherwise. The Code Commissioner shall replace the reference in future code supplements and replacement volumes as the Code Commissioner determines appropriate."

### **Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 11th day of June, 2013.

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*President of the Senate*

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*Speaker of the House of Representatives*

Approved the \_\_\_\_\_ day of \_\_\_\_\_ 2013.

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