



**Substitute House Bill No. 6639**

**Public Act No. 05-208**

**AN ACT CONCERNING OFFSETS AGAINST DISABILITY RETIREMENT BENEFITS FOR STATE EMPLOYEES AND STRESS-RELATED WORKERS' COMPENSATION BENEFITS FOR POLICE OFFICERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 5-170 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(c) Retirement income payments shall not be reduced: (1) For a member receiving a specific indemnity award under section 31-307 or 31-308; (2) for a member who received a judgment for personal injuries and pain and suffering under the provisions of section 31-293, provided [he] the member has reimbursed the state in full for all sums expended by it under chapter 568; or (3) by the amount of any attorney's fees a member incurs to obtain benefits under the Workers' Compensation Act or federal Social Security disability benefits.

Sec. 2. Subsection (d) of section 5-192p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(d) Notwithstanding the provisions of subsection (c) of this section,

***Substitute House Bill No. 6639***

the following maximum benefit limitation shall apply. In order to verify the operation of the maximums, it shall be a condition precedent to receipt of any disability benefits under this section that a member authorize the Social Security Administration to provide the Retirement Commission, on an ongoing basis, any information with regard to covered earnings or Social Security benefits payable. In the event both of the maximums indicated below apply, the lesser disability benefit shall be payable. Such maximums shall be subject to reexamination annually, as indicated in subsection (e) of this section.

(1) The disability benefit provided under this subsection shall not exceed (A) one hundred per cent of the member's final average earnings or the rate of salary of the member on date of disability, whichever is greater, less (B) any periodic cash benefit payments being made to a member under the Workers' Compensation Act, less (C) any federal disability Social Security benefits both primary and family paid on account of the member's Social Security earnings history, less (D) all outside earned salary or wages unless the Retirement Commission determines that such salary or wages are being paid as part of the rehabilitation of the disabled member. Any such determination that such earned salary or wages is for rehabilitation must be reapproved by the Retirement Commission no less frequently than every eighteen months, or the offset shall apply. The offset for workers' compensation and federal Social Security disability benefits shall apply when such benefits commence even if such benefits initially commence after the member's disability retirement date.

(2) The disability benefit provided under this subsection shall not exceed (A) eighty per cent of the greater of the member's final average earnings or the rate of salary of the member on the date of disability, less (B) any periodic cash benefit payments being made to a member under the Workers' Compensation Act, less (C) any federal disability Social Security benefits, both primary and family being paid on

**Substitute House Bill No. 6639**

account of the member's Social Security earnings history. The offsets shall apply when such benefits commence even if such benefits initially commence after the member's disability retirement date.

(3) The offsets for workers' compensation and federal Social Security disability benefits shall be reduced by the amount of any attorney's fees a member incurs to obtain such benefits.

Sec. 3. Subsection (g) of section 5-169 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(g) Twenty per cent of all outside earned salary or wages shall be offset against the disability retirement payments by the state during the first two years of disability. On or after October 1, 1987, at the expiration of such period, if the total disability benefits and outside earnings exceed one hundred per cent of the pay of such member at the date of disability, adjusted annually by a percentage increase equal to the cost of living allowances applied to the member's disability retirement benefits pursuant to this chapter, the disability payment will be reduced by the amount such total exceeds such adjusted earnings. Notwithstanding the foregoing provisions of this section, the following maximum benefit limitations shall apply if the member's date of disability occurs on or after January 1, 1984. Such maximum benefit limitations shall apply coincident with the receipt of benefits under subsection (d) of section 5-142 by any member of the Division of State Police within the Department of Public Safety. To verify the operation of the maximums, members shall authorize the Social Security Administration to provide the Retirement Commission, on an ongoing basis, any information with regard to covered earnings or Social Security benefits payable. In the event both of the maximums indicated below apply, the lesser disability benefit shall be payable. Such maximums shall be subject to reexamination annually, as indicated in subsection (h) of this section.

**Substitute House Bill No. 6639**

(1) The disability benefit provided under this section shall not exceed one hundred per cent of the member's base salary or the rate of salary of the member on his date of disability, whichever is greater, less any periodic cash benefit payments being made to a member under the Workers' Compensation Act, less any federal disability Social Security benefits, including primary and family, paid on account of the member's Social Security earnings history, less all outside earned salary or wages, unless the Retirement Commission determines that such salary or wages are being paid as part of the rehabilitation of the disabled member. Any such determination that such earned salary or wages is for rehabilitation must be reapproved by the Retirement Commission no less frequently than every eighteen months, or the offset shall apply. The offset for workers' compensation and federal Social Security disability benefits shall apply when such benefits commence even if such benefits initially commence after the member's disability retirement date.

(2) The disability benefit provided under this section shall not exceed eighty per cent of the member's base salary or the rate of salary of the member on the date of disability, whichever is greater, less any periodic cash benefit payments being made to a member under the Workers' Compensation Act, less any federal disability Social Security benefits, including primary and family, being paid on account of the member's Social Security earnings history. The offsets shall apply when such benefits commence even if such benefits initially commence after the member's disability retirement date.

(3) The offsets for workers' compensation and federal Social Security disability benefits shall be reduced by the amount of any attorney's fees a member incurs to obtain such benefits.

Sec. 4. Subdivision (16) of section 31-275 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

**Substitute House Bill No. 6639**

(16) (A) "Personal injury" or "injury" includes, in addition to accidental injury [which] that may be definitely located as to the time when and the place where the accident occurred, an injury to an employee [which] that is causally connected with [his] the employee's employment and is the direct result of repetitive trauma or repetitive acts incident to such employment, and occupational disease.

(B) "Personal injury" or "injury" shall not be construed to include:

(i) An injury to an employee [which] that results from [his] the employee's voluntary participation in any activity the major purpose of which is social or recreational, including, but not limited to, athletic events, parties and picnics, whether or not the employer pays some or all of the cost of such activity;

(ii) A mental or emotional impairment, unless such impairment arises (I) from a physical injury or occupational disease, or (II) in the case of a police officer, from such police officer's use of deadly force or subjection to deadly force in the line of duty, regardless of whether such police officer is physically injured, provided such police officer is the subject of an attempt by another person to cause such police officer serious physical injury or death through the use of deadly force, and such police officer reasonably believes such police officer to be the subject of such an attempt. As used in this clause, "police officer" means a member of the Division of State Police within the Department of Public Safety, an organized local police department or a municipal constabulary, and "in the line of duty" means any action that a police officer is obligated or authorized by law, rule, regulation or written condition of employment service to perform, or for which the police officer is compensated by the public entity such officer serves;

(iii) A mental or emotional impairment [which] that results from a personnel action, including, but not limited to, a transfer, promotion, demotion or termination; or

**Substitute House Bill No. 6639**

(iv) Notwithstanding the provisions of [clause (i) of this] subparagraph (B)(i) of this subdivision, "personal injury" or "injury" includes injuries to employees of local or regional boards of education resulting from participation in a school-sponsored activity but does not include any injury incurred while going to or from such activity. As used in this clause, "school-sponsored activity" means any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property and "participation" means acting as a chaperone, advisor, supervisor or instructor at the request of an administrator with supervisory authority over the employee.

Sec. 5. (NEW) (*Effective October 1, 2005*) Notwithstanding any provision of chapter 568 of the general statutes, workers' compensation benefits for any police officer, as defined in subparagraph (B)(ii) of subdivision (16) of section 31-275 of the general statutes, as amended by this act, who suffers a mental or emotional impairment arising from such police officer's use of deadly force or subjection to deadly force in the line of duty, shall be limited to treatment by a psychologist or a psychiatrist who is on the approved list of practicing physicians established by the chairman of the Workers' Compensation Commission pursuant to section 31-280 of the general statutes.

Approved July 6, 2005