

HOUSE BILL NO. 271

INTRODUCED BY THOFT, QUILICI, HARRINGTON

IN THE HOUSE

January 16, 1981	Introduced and referred to Committee on State Administration.
January 17, 1981	Fiscal note requested.
January 22, 1981	Fiscal note returned.
January 28, 1981	Committee recommend bill do pass as amended. Report adopted.
January 29, 1981	Bill printed and placed on members' desks.
January 30, 1981	Second reading, do pass.
January 31, 1981	Correctly engrossed.
February 2, 1981	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 3, 1981	Introduced and referred to Committee on Local Government.
March 9, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 11, 1981	Second reading, concurred in.
March 13, 1981	Third reading, concurred in as amended. Ayes, 47; Noes, 0.

IN THE HOUSE

March 14, 1981	Returned from Senate with amendments.
----------------	---------------------------------------

March 18, 1981

Second reading, amendments
concurrent in.

March 20, 1981

Third reading, amendments
concurrent in. Ayes, 92; Noes, 0.
Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 271

INTRODUCED BY

Thom Zink

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING AN ACTIVE VOLUNTEER FIREFIGHTER WHO IS PERMANENTLY AND TOTALLY DISABLED TO RECEIVE A PARTIAL PENSION AT ANY AGE AND PROVIDING FOR MEDICAL REVIEW OF THE RECIPIENT AND CANCELLATION AND REINSTATEMENT OF THE PENSION; AMENDING SECTION 19-12-401, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-12-401, MCA, is amended to read:

"19-12-401. Eligibility for pension benefits. In order to qualify for participation in the volunteer firefighters' pension plan under 19-12-404, a volunteer firefighter must meet each of the following requirements:

(1) (a) To qualify for full participation, he must have completed a total of at least 20 years' service as an active volunteer firefighter and as an active member of a qualified volunteer fire company.

(b) If a firefighter is prevented from completing at least 20 years' service by dissolution or discontinuance of his volunteer fire company, personal relocation due to transfer or loss of employment, personal disability, or any other factor beyond his reasonable control, he may qualify

for partial participation if he has completed at least 10 years' service. In that event, he is eligible for only a proportion of the benefits specified in 19-12-404, determined by multiplying the benefits by a fraction, the numerator of which is the number of years of active service completed and the denominator of which is 20.

(c) The years of active service are cumulative and need not be continuous. The service need not be acquired with one single fire company but may be a total of separate periods of active service with different fire companies in different fire districts.

(d) Effective March 1, 1965, the annual period of service for the purpose of this chapter is the fiscal year. No fractional part of any year may count toward the service requirement, and to receive credit for any particular year, a volunteer firefighter must serve with one particular volunteer fire company throughout that entire fiscal year.

(2) (a) Except as provided in subsection (2)(b), he must have attained the age of 55, but he need not be an active volunteer firefighter or an active member of any volunteer fire company when he reaches that age.

(b) If an active member of a volunteer fire company whose injury from any cause results in a permanent, total disability as defined in 32-71-11&(13) qualifies for benefits under subsection (1)(b), he is eligible to receive

1 a partial pension regardless of his age.

2 (3) During each of the years for which he claims
3 credit under subsection (1), he must have completed a
4 minimum of 30 hours of instruction in matters pertaining to
5 firefighting under a program formulated and supervised by
6 the chief or foreman of his volunteer fire company.

7 (4) Effective July 1, 1965, no volunteer firefighter
8 may receive credit for any year of membership in a volunteer
9 fire company unless, throughout the year:

10 (a) the company maintained firefighting equipment in
11 serviceable condition of a value of \$2,500 or more; and

12 (b) the company or the fire district served by it was
13 rated in class 5, 6, 7, 8, 9, or 10 by the board of fire
14 underwriters for the purpose of fire insurance premium
15 rates.

16 (5) He must have ceased to be an active member of any
17 volunteer fire company, and if he applies for and receives
18 pension benefits hereunder, he will not thereafter be
19 eligible to become an active member of any volunteer fire
20 company."

21 NEW SECTION. Section 2. Medical review of certain
22 disability retirees. The board may require the recipient of
23 a partial pension resulting from a permanent, total
24 disability to undergo periodic medical examinations. The
25 examinations must be made by a physician or surgeon at the

1 recipient's residence or another place mutually agreed on.
2 Upon the basis of the examination, the board shall
3 determine, by reason of physical or mental capacity, whether
4 the recipient remains permanently and totally disabled.

5 NEW SECTION. Section 3. Cancellation and
6 reinstatement of certain pensions. (1) The board may cancel
7 a recipient's partial pension resulting from a permanent,
8 total disability if:

9 (a) the board determines that the recipient is no
10 longer permanently and totally disabled as provided in
11 [section 2];

12 (b) the recipient refuses to submit to a medical
13 examination under [section 2]; or

14 (c) the recipient engages in a gainful occupation
15 during the previous year and the compensation earned by him
16 in that year exceeds \$5,500.

17 (2) The cancellation of a pension under this section
18 does not prejudice any right of a firefighter to other
19 pension benefits payable under the Volunteer Firefighters'
20 Compensation Act.

21 (3) If a former recipient's earnings in any year after
22 the cancellation of his pension under subsection (1)(c) are
23 less than \$5,500, his pension must be reinstated.

24 Section 4. Codification instruction. Sections 2 and 3
25 are intended to be codified as an integral part of Title 19,

LC 0301/01

- 1 chapter 12, part 4, and the provisions of Title 19, chapter
- 2 12, apply to sections 2 and 3.

-End-

STATE OF MONTANA

REQUEST NO. 143-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 81, there is hereby submitted a Fiscal Note for House Bill 271 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

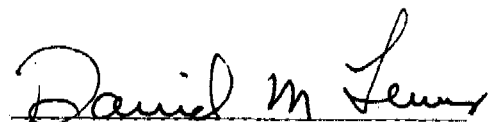
This bill provides for a disability retirement allowance to be paid to an active volunteer fireman who becomes totally and permanently disabled. Also provides for review of the disability and cancellation of allowances.

Fiscal Impact

The number of volunteers that will become totally and permanently disabled cannot be determined. This will cause some fiscal impact; however, it cannot be calculated

Comment

Whatever cost associated with this measure will be nullified by the fact that the benefit payments cannot exceed 95% of the previous year's growth which guarantees a growth of 5% a year to the fund. If there is not sufficient growth in the fund to pay the maximum benefits, then all benefits are reduced proportionately. Therefore, the fiscal impact would be to the benefit recipients as a whole if reduced benefits were required.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-21-81

Approved by Committee
on State Administration

1 HOUSE BILL NO. 271

2 INTRODUCED BY THOFT, QUILICI, HARRINGTON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING AN ACTIVE
5 VOLUNTEER FIREFIGHTER WHO IS PERMANENTLY AND TOTALLY
6 DISABLED FROM A DUTY-RELATED INJURY TO RECEIVE A PARTIAL
7 PENSION AT ANY AGE AND PROVIDING FOR MEDICAL REVIEW OF THE
8 RECIPIENT AND CANCELLATION AND REINSTATEMENT OF THE PENSION;
9 AMENDING SECTION 19-12-401, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 19-12-401, MCA, is amended to read:

13 "19-12-401. Eligibility for pension benefits. In order
14 to qualify for participation in the volunteer firefighters'
15 pension plan under 19-12-404, a volunteer firefighter must
16 meet each of the following requirements:

17 (1) (a) To qualify for full participation, he must
18 have completed a total of at least 20 years' service as an
19 active volunteer firefighter and as an active member of a
20 qualified volunteer fire company.

21 (b) If a firefighter is prevented from completing at
22 least 20 years' service by dissolution or discontinuance of
23 his volunteer fire company, personal relocation due to
24 transfer or loss of employment, personal disability, or any
25 other factor beyond his reasonable control, he may qualify

1 for partial participation if he has completed at least 10
2 years' service. In that event, he is eligible for only a
3 proportion of the benefits specified in 19-12-404,
4 determined by multiplying the benefits by a fraction, the
5 numerator of which is the number of years of active service
6 completed and the denominator of which is 20.

7 (c) The years of active service are cumulative and
8 need not be continuous. The service need not be acquired
9 with one single fire company but may be a total of separate
10 periods of active service with different fire companies in
11 different fire districts.

12 (d) Effective March 1, 1965, the annual period of
13 service for the purpose of this chapter is the fiscal year.
14 No fractional part of any year may count toward the service
15 requirement, and to receive credit for any particular year,
16 a volunteer firefighter must serve with one particular
17 volunteer fire company throughout that entire fiscal year.

18 (2) (a) Except as provided in subsection (2)(b), he
19 must have attained the age of 55, but he need not be an
20 active volunteer firefighter or an active member of any
21 volunteer fire company when he reaches that age.

22 (b) If an active member of a volunteer fire company
23 whose DUTY-RELATED injury from--any--cause results in a
24 permanent, total disability as defined in 39-71-116(13)
25 qualifies for benefits under subsection (1)(b), he is

1 eligible to receive a partial pension regardless of his age.

2 (3) During each of the years for which he claims
3 credit under subsection (1), he must have completed a
4 minimum of 30 hours of instruction in matters pertaining to
5 firefighting under a program formulated and supervised by
6 the chief or foreman of his volunteer fire company.

7 (4) Effective July 1, 1965, no volunteer firefighter
8 may receive credit for any year of membership in a volunteer
9 fire company unless, throughout the year:

10 (a) the company maintained firefighting equipment in
11 serviceable condition of a value of \$2,500 or more; and

12 (b) the company or the fire district served by it was
13 rated in class 5, 6, 7, 8, 9, or 10 by the board of fire
14 underwriters for the purpose of fire insurance premium
15 rates.

16 (5) He must have ceased to be an active member of any
17 volunteer fire company, and if he applies for and receives
18 pension benefits hereunder, he will not thereafter be
19 eligible to become an active member of any volunteer fire
20 company."

21 NEW SECTION. Section 2. Medical review of certain
22 disability retirees. The board may require the recipient of
23 a partial pension resulting from a permanent, total
24 disability to undergo periodic medical examinations. The
25 examinations must be made by a physician or surgeon at the

1 recipient's residence or another place mutually agreed on.
2 Upon the basis of the examination, the board shall
3 determine, by reason of physical or mental capacity, whether
4 the recipient remains permanently and totally disabled.

5 NEW SECTION. Section 3. Cancellation and
6 reinstatement of certain pensions. (1) The board may cancel
7 a recipient's partial pension resulting from a permanent,
8 total disability if:

9 (a) the board determines that the recipient is no
10 longer permanently and totally disabled as provided in
11 [section 2];

12 (b) the recipient refuses to submit to a medical
13 examination under [section 2]; or

14 (c) the recipient engages in a gainful occupation
15 during the previous year and the compensation earned by him
16 in that year exceeds \$5,500.

17 (2) The cancellation of a pension under this section
18 does not prejudice any right of a firefighter to other
19 pension benefits payable under the Volunteer Firefighters'
20 Compensation Act.

21 (3) If a former recipient's earnings in any year after
22 the cancellation of his pension under subsection (1)(c) are
23 less than \$5,500, his pension must be reinstated.

24 Section 4. Codification instruction. Sections 2 and 3
25 are intended to be codified as an integral part of Title 19,

HB 0271/02

1 chapter 12, part 4, and the provisions of Title 19, chapter
2 12, apply to sections 2 and 3.

-End-

1 HOUSE BILL NO. 271

2 INTRODUCED BY THOFT, QUILICI, HARRINGTON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING AN ACTIVE
5 VOLUNTEER FIREFIGHTER WHO IS PERMANENTLY AND TOTALLY
6 DISABLED FROM A DUTY-RELATED INJURY TO RECEIVE A PARTIAL
7 PENSION AT ANY AGE AND PROVIDING FOR MEDICAL REVIEW OF THE
8 RECIPIENT AND CANCELLATION AND REINSTATEMENT OF THE PENSION;
9 AMENDING SECTION 19-12-401, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 19-12-401, MCA, is amended to read:

13 "19-12-401. Eligibility for pension benefits. In order
14 to qualify for participation in the volunteer firefighters'
15 pension plan under 19-12-404, a volunteer firefighter must
16 meet each of the following requirements:

17 (1) (a) To qualify for full participation, he must
18 have completed a total of at least 20 years' service as an
19 active volunteer firefighter and as an active member of a
20 qualified volunteer fire company.

21 (b) If a firefighter is prevented from completing at
22 least 20 years' service by dissolution or discontinuance of
23 his volunteer fire company, personal relocation due to
24 transfer or loss of employment, personal disability, or any
25 other factor beyond his reasonable control, he may qualify

1 for partial participation if he has completed at least 10
2 years' service. In that event, he is eligible for only a
3 proportion of the benefits specified in 19-12-404,
4 determined by multiplying the benefits by a fraction, the
5 numerator of which is the number of years of active service
6 completed and the denominator of which is 20.

7 (c) The years of active service are cumulative and
8 need not be continuous. The service need not be acquired
9 with one single fire company but may be a total of separate
10 periods of active service with different fire companies in
11 different fire districts.

12 (d) Effective March 1, 1965, the annual period of
13 service for the purpose of this chapter is the fiscal year.
14 No fractional part of any year may count toward the service
15 requirement, and to receive credit for any particular year,
16 a volunteer firefighter must serve with one particular
17 volunteer fire company throughout that entire fiscal year.

18 (2) (a) Except as provided in subsection (2)(b), He he
19 must have attained the age of 55, but he need not be an
20 active volunteer firefighter or an active member of any
21 volunteer fire company when he reaches that age.

22 (b) If an active member of a volunteer fire company
23 whose DUTY-RELATED injury from--any--cause results in a
24 permanent, total disability as defined in 39-71-116(13)
25 qualifies for benefits under subsection (1)(b), he is

1 eligible to receive a partial pension regardless of his age.

2 (3) During each of the years for which he claims
3 credit under subsection (1), he must have completed a
4 minimum of 30 hours of instruction in matters pertaining to
5 firefighting under a program formulated and supervised by
6 the chief or foreman of his volunteer fire company.

7 (4) Effective July 1, 1965, no volunteer firefighter
8 may receive credit for any year of membership in a volunteer
9 fire company unless, throughout the year:

10 (a) the company maintained firefighting equipment in
11 serviceable condition of a value of \$2,500 or more; and

12 (b) the company or the fire district served by it was
13 rated in class 5, 6, 7, 8, 9, or 10 by the board of fire
14 underwriters for the purpose of fire insurance premium
15 rates.

16 (5) He must have ceased to be an active member of any
17 volunteer fire company, and if he applies for and receives
18 pension benefits hereunder, he will not thereafter be
19 eligible to become an active member of any volunteer fire
20 company."

21 NEW SECTION. Section 2. Medical review of certain
22 disability retirees. The board may require the recipient of
23 a partial pension resulting from a permanent, total
24 disability to undergo periodic medical examinations. The
25 examinations must be made by a physician or surgeon at the

1 recipient's residence or another place mutually agreed on.
2 Upon the basis of the examination, the board shall
3 determine, by reason of physical or mental capacity, whether
4 the recipient remains permanently and totally disabled.

5 NEW SECTION. Section 3. Cancellation and
6 reinstatement of certain pensions. (1) The board may cancel
7 a recipient's partial pension resulting from a permanent,
8 total disability if:

9 (a) the board determines that the recipient is no
10 longer permanently and totally disabled as provided in
11 [section 2];

12 (b) the recipient refuses to submit to a medical
13 examination under [section 2]; or

14 (c) the recipient engages in a gainful occupation
15 during the previous year and the compensation earned by him
16 in that year exceeds \$5,500.

17 (2) The cancellation of a pension under this section
18 does not prejudice any right of a firefighter to other
19 pension benefits payable under the Volunteer Firefighters'
20 Compensation Act.

21 (3) If a former recipient's earnings in any year after
22 the cancellation of his pension under subsection (1)(c) are
23 less than \$5,500, his pension must be reinstated.

24 Section 4. Codification instruction. Sections 2 and 3
25 are intended to be codified as an integral part of Title 19,

HB 0271/02

1 chapter 12, part 4, and the provisions of Title 19, chapter
2 12, apply to sections 2 and 3.

-End-

1 HOUSE BILL NO. 271

2 INTRODUCED BY THOFT, QUILICI, HARRINGTON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING AN ACTIVE
5 VOLUNTEER FIREFIGHTER WHO IS PERMANENTLY AND TOTALLY
6 DISABLED FROM A DUTY-RELATED INJURY TO RECEIVE A PARTIAL
7 PENSION AT ANY AGE AND PROVIDING FOR MEDICAL REVIEW OF THE
8 RECIPIENT AND CANCELLATION AND REINSTATEMENT OF THE PENSION;
9 AMENDING SECTION 19-12-401, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 19-12-401, MCA, is amended to read:

13 "19-12-401. Eligibility for pension benefits. In order
14 to qualify for participation in the volunteer firefighters'
15 pension plan under 19-12-404, a volunteer firefighter must
16 meet each of the following requirements:

17 (1) (a) To qualify for full participation, he must
18 have completed a total of at least 20 years' service as an
19 active volunteer firefighter and as an active member of a
20 qualified volunteer fire company.

21 (b) If a firefighter is prevented from completing at
22 least 20 years' service by dissolution or discontinuance of
23 his volunteer fire company, personal relocation due to
24 transfer or loss of employment, personal disability, or any
25 other factor beyond his reasonable control, he may qualify

1 for partial participation if he has completed at least 10
2 years' service. In that event, he is eligible for only a
3 proportion of the benefits specified in 19-12-404,
4 determined by multiplying the benefits by a fraction, the
5 numerator of which is the number of years of active service
6 completed and the denominator of which is 20.

7 (c) The years of active service are cumulative and
8 need not be continuous. The service need not be acquired
9 with one single fire company but may be a total of separate
10 periods of active service with different fire companies in
11 different fire districts.

12 (d) Effective March 1, 1965, the annual period of
13 service for the purpose of this chapter is the fiscal year.
14 No fractional part of any year may count toward the service
15 requirement, and to receive credit for any particular year,
16 a volunteer firefighter must serve with one particular
17 volunteer fire company throughout that entire fiscal year.

18 (2) (a) Except as provided in subsection (2)(b), he he
19 must have attained the age of 55, but he need not be an
20 active volunteer firefighter or an active member of any
21 volunteer fire company when he reaches that age.

22 (b) If an AN active member of a volunteer fire company
23 whose DUTY-RELATED injury from any cause results in a
24 permanent, total disability as defined in 39-71-116(13)
25 qualifies for benefits under subsection (1)(b), he is

1 eligible to receive a partial pension regardless of his age
2 CALCULATED AS FOLLOWS:

3 (I) FOR A MEMBER WITH LESS THAN 10 YEARS OF SERVICE, A
4 PENSION CALCULATED AS PROVIDED IN SUBSECTION (1)(B) IN WHICH
5 THE NUMERATOR EQUALS 10; OR

6 (II) FOR A MEMBER WITH 10 YEARS OR MORE OF SERVICE, A
7 PENSION CALCULATED AS PROVIDED IN SUBSECTION (1)(B).

8 (3) During each of the years for which he claims
9 credit under subsection (1), he must have completed a
10 minimum of 30 hours of instruction in matters pertaining to
11 firefighting under a program formulated and supervised by
12 the chief or foreman of his volunteer fire company.

13 (4) Effective July 1, 1965, no volunteer firefighter
14 may receive credit for any year of membership in a volunteer
15 fire company unless, throughout the year:

16 (a) the company maintained firefighting equipment in
17 serviceable condition of a value of \$2,500 or more; and

18 (b) the company or the fire district served by it was
19 rated in class 5, 6, 7, 8, 9, or 10 by the board of fire
20 underwriters for the purpose of fire insurance premium
21 rates.

22 (5) He must have ceased to be an active member of any
23 volunteer fire company, and if he applies for and receives
24 pension benefits hereunder, he will not thereafter be
25 eligible to become an active member of any volunteer fire

1 company."

2 NEW SECTION. Section 2. Medical review of certain
3 disability retirees. The board may require the recipient of
4 a partial pension resulting from a permanent, total
5 disability to undergo periodic medical examinations. The
6 examinations must be made by a physician or surgeon at the
7 recipient's residence or another place mutually agreed on.
8 Upon the basis of the examination, the board shall
9 determine, by reason of physical or mental capacity, whether
10 the recipient remains permanently and totally disabled.

11 NEW SECTION. Section 3. Cancellation and
12 reinstatement of certain pensions. (1) The board may cancel
13 a recipient's partial pension resulting from a permanent,
14 total disability if:

15 (a) the board determines that the recipient is no
16 longer permanently and totally disabled as provided in
17 [section 2];

18 (b) the recipient refuses to submit to a medical
19 examination under [section 2]; or

20 (c) the recipient engages in a gainful occupation
21 during the previous year and the compensation earned by him
22 in that year exceeds \$5,500.

23 (2) The cancellation of a pension under this section
24 does not prejudice any right of a firefighter to other
25 pension benefits payable under the Volunteer Firefighters'

1 Compensation Act.

2 (3) If a former recipient's earnings in any year after
3 the cancellation of his pension under subsection (1)(c) are
4 less than \$5,500, his pension must be reinstated.

5 Section 4. Codification instruction. Sections 2 and 3
6 are intended to be codified as an integral part of Title 19,
7 chapter 12, part 4, and the provisions of Title 19, chapter
8 12, apply to sections 2 and 3.

-End-

March 9, 1981

SENATE STANDING COMMITTEE REPORT
(Local Government)

That House Bill No. 271 be amended as follows:

1. Page 2, line 22.

Following: "(b)"

Strike: "If an"

Insert: "An"

2. Page 2, line 25.

Following: line 24

Strike: "qualifies for benefits under subsection (1)(b), he"

3. Page 3, line 1.

Following: "age"

Strike: "."

Insert: "calculated as follows:

(i) for a member with less than 10 years of service, a pension calculated as provided in subsection (1)(b) in which the numerator equals 10; or

(ii) for a member with 10 years or more of service, a pension calculated as provided in subsection (1)(b)."