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Legislature Ends “King for a Day” Disability Pensions

Disability pension based on twelve months compensation, not one day

The General Court took strong action in late June to close several loopholes that had caused long-term pension abuse and had been the focus of high profile articles over the past few years by *The Boston Globe* and to a lesser extent the *Boston Herald*. The new law ([Chapter 21, Acts of 2009](#)) addressed the low-hanging fruit that outraged the public more because of a sense of special privilege for the few than because it added significantly to pension cost trends.

Legislators took heat for their vote for Chapter 21, especially from firefighters and police officers, but the reality is that closing these loopholes represents just the first step in any serious effort to deal with the escalating cost trends for public pensions in Massachusetts. Far more difficult policy choices are coming and the first look will be presented by the Special Commission on Pension Reform which is expected to release its report this coming September 1st.

King for a Day

Of the pension reforms enacted, the most controversial and most beneficial to Boston is the change in the accidental disability retirement calculation which eliminated “king for a day” pensions. A firefighter who sustains a disabling injury while serving in a higher out-of-grade position, even for one day, can no longer receive a disability pension based on the higher out-of-grade level salary or the average regular compensation for the 12 months prior to retirement date, whichever is greater. Instead the pension will be based

on the last 12 months of the employee’s regular compensation “prior to the date of injury.” This change takes into account any time served in a higher level position as part of the total compensation over the prior 12-month period.

Calculating compensation based on the 12 months prior to the date of injury rather than the date of retirement is significant because it takes away the incentive for public safety officers to linger on injury leave for over 12 months to enhance their accidental disability pensions. Police officers and firefighters who sustain a serious injury receive 100% of their salary tax-free while on leave under state law. This higher salary is considered regular compensation for pension purposes. Without the law change, the higher injury pay for 12 months would contribute to an enhanced disability pension for life.

Based on 115 firefighter disability retirements since January 2008, the average time on injury leave from the date of injury to receiving the accidental disability retirement is 2 years and two months (794 days). The actual accidental disability pension is less than injury leave pay since it is based on 72% of compensation tax-free rather than 100% tax-free.

The police and firefighter unions are pushing for a change in the start date for disability pensions to 12 months prior to the date of retirement. The Legislature and courts should resist this effort and maintain the current language of Chapter 21.