

**95.864 Medical examination to determine disability -- Certification of examining physicians -- Termination of policeman's or firefighter's disability retirement annuity -- Appeal.**

- (1) For the purpose of KRS 95.851 to 95.884 and KRS 95.991, a member shall be considered totally and permanently disabled after the board shall have received written certification by at least two (2) licensed and practicing physicians selected by the board that the member is totally and likely to be permanently disabled for the further performance of the duties of any assigned position in the service of the department. If upon consideration of the report of such physicians and such other evidence as shall have been presented to it by the member or others interested therein, the board finds the member to be totally and permanently disabled, it shall grant him a disability retirement annuity upon written certification that the member has been separated from the service of the city because of total disability of such nature as to reasonably prevent further service for the employer, and as a consequence is not entitled to compensation from the city.
- (2) If, after the board grants a policeman or firefighter a disability retirement annuity, the board determines that a policeman so retired is performing police work for another employer, or that a firefighter so retired is performing firefighting duties for another employer, and that the duties performed for the new employer are substantially the same as those which the retired member performed for the city, then the board may terminate the retired member's disability retirement annuity.
- (3) If the board terminates a retired member's disability retirement annuity pursuant to subsection (2) of this section, the city shall offer the member reemployment with the police or fire department in order that the member may, if he chooses, complete the service required for normal retirement. Time spent in disability retirement shall not count as service credit for normal retirement.
- (4) A retired member aggrieved by termination of his disability retirement annuity may appeal the decision of the board to the Circuit Court of the county in which the board is located. The scope of the appeal shall be limited to whether the board abused its discretion in terminating the retirement benefit.

**Effective:** July 15, 1980

**History:** Amended 1980 Ky. Acts ch. 188, sec. 86, effective July 15, 1980; and ch. 367, sec. 5, effective July 15, 1980. -- Created 1956 Ky. Acts ch. 16, sec. 14, effective July 1, 1956.

**Legislative Research Commission Note** (11/21/96). In 1974, the Reviser of Statutes renumbered KRS 95.885 as KRS 95.991. 1980 Ky. Acts ch. 188, sec. 86, a revisory act, mistakenly changed a reference in this statute from "KRS 95.851 to 95.885" to "KRS 95.851 to 95.991." Because this change would appear to effect a substantive change in the law, it has been disregarded, and the reference has been made to read "KRS 95.851 to 95.884 and KRS 95.991" under KRS 7.123(4) and 7.136(1)(a).