

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 5.**

**POLICE, FIREFIGHTERS, MEDICAL  
EXAMINER, AND FORENSIC SCIENCES.**

**CHAPTER 7.**

**POLICE AND FIREFIGHTERS RETIREMENT AND  
DISABILITY.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 7. POLICE AND FIREFIGHTERS**  
**RETIREMENT AND DISABILITY.**

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# **CHAPTER 7. POLICE AND FIREFIGHTERS RETIREMENT AND DISABILITY.**

## **SUBCHAPTER I. RETIREMENT AND DISABILITY, 1916.**

### **§ 5-701. DEFINITIONS.**

Wherever used in this subchapter:

(1)(A) The term "member" means any officer or member of the Metropolitan Police force, of the Fire Department of the District of Columbia, of the United States Park Police force, of the United States Secret Service Uniformed Division, and any officer or member of the United States Secret Service Division to whom this subchapter shall apply, but does not include an officer or member of the United States Park Police force, of the United States Secret Service Uniformed Division, or of the United States Secret Service Division, whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986, and who is not excluded from coverage under chapter 84 of title 5, United States Code, by operation of 8402 of such title.

(B) [Not funded]

(2) The terms "disabled" and "disability" mean disabled for useful and efficient service in the grade or class of position last occupied by the member by reason of disease or injury, not due to vicious habits or intemperance as determined by the Board of Police and Fire Surgeons, or willful misconduct on his part as determined by the Mayor.

(3) The term "widow" means the surviving wife of a member or former member if:

(A) She was married to such member or former member:

(i) While he was a member; or

(ii) For at least 1 year immediately preceding his death; or

(B) She is the mother of issue by such marriage.

(4) The term "widower" means the surviving husband of a member or former member if, in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if:

(A) He was married to such member or former member:

(i) While she was a member; or

(ii) For at least 1 year immediately preceding her death; or

(B) He is the father of issue by such marriage.

(5)(A) The term "child" means an unmarried child, including:

(i) An adopted child; and

(ii) A stepchild or recognized natural child who lives with the member in a regular parent-child relationship, under the age of 18 years; or

(iii) Such unmarried child regardless of age who, because of physical or mental disability incurred before the age of 18, is incapable of self-support.

(B) The term "student child" means an unmarried child who is a student between the ages of 18 and 22 years, inclusive, and who is regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

- (6) The term "basic salary" means regular salary established by law or regulation, including any differential for special occupational assignment, but shall not include overtime, holiday, or military pay.
- (7) The term "annuitant" means any former member who, on the basis of his service, has met all requirements of this subchapter for title to annuity and has filed claim therefor.
- (8) The term "survivor" means a person who is entitled to annuity under this subchapter based on the service of a deceased member or of a deceased annuitant.
- (9) The term "survivor annuitant" means a survivor who has filed claim for annuity.
- (10) The term "police or fire service" means all honorable service in the Metropolitan Police Department, United States Secret Service Uniformed Division, Fire Department of the District of Columbia, the United States Park Police force, and the United States Secret Service Division coming under the provisions of this act.
- (11) The term "military service" means honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, but shall not include service in the National Guard except when ordered to active duty in the service of the United States.
- (12) The term "Mayor" means the Mayor of the District of Columbia or his designated agent or agents.
- (13) The term "service" means employment which is creditable under § 5-704.
- (14) The term "government" means the executive, judicial, and legislative branches of the United States government, including government owned or controlled corporations and Gallaudet College, and the municipal government of the District of Columbia.
- (15) The term "government service" means honorable active service in the executive, judicial, or legislative branches of the United States government, including government owned or controlled corporations, and Gallaudet College, and the municipal government of the District of Columbia, and for which retirement deductions, other than social security deductions, were made.
- (16) The term "department" means any part of the executive branch of the United States government, or any part of the government of the District of Columbia whose members come under this subchapter.
- (17) The term "average pay" means the highest annual rate resulting from averaging the member's rates of basic salary in effect over any 36 consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the 90-day period beginning on November 17, 1979, or over any 12 consecutive months of police or fire service in the case of any other member, with each rate weighted by the time it was in effect, except that if the member retires under § 5-710 and if on the date of his retirement under the section he has not completed 12 consecutive months or 36 consecutive months, as the case may be, of police or fire service, such term means his basic salary at the time of his retirement.
- (18) The term "adjusted average pay" means the average pay of a member who was an officer or member of the United States Secret Service Uniformed Division, the United States Secret Service Division, the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one tenth of 1%) in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies; except that in the case of members hired on or after the first day of the first pay period that begins after October 29, 1996, the increase shall not exceed 3% per annum.
- (19) The term "full range of duties" means the ability of a sworn member of the Metropolitan Police Department or the Fire and Emergency Medical Services Department to perform all of the essential functions of police work or fire suppression as determined by the established policies and procedures of the Metropolitan Police Department or the Fire and Emergency Medical Services Department and to meet the physical examination and physical agility standards established under §§ 5-107.02a and 5-451.

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(a); as added Aug. 21, 1957, 71 Stat. 391, Pub. L. 85-157, § 3; Oct. 26, 1970, 84 Stat. 1136, Pub. L. 91-509, §§ 1(1), (2); Dec. 7, 1970, 84 Stat. 1392, Pub. L. 91-532, § 1(a); Aug. 29, 1972, 86 Stat. 641, Pub. L. 92-410, title II, § 201(a)(1); Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(a), (d)(1); Oct. 1, 1976, D.C. Law 1-87, § 8(a), 23 DCR 2544; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 96-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 201, 206(a)(2); Jan. 8, 1988, 101 Stat. 1745, Pub. L. 100-238, § 103(d); Feb. 5, 1994, D.C. Law 10-68, § 13, 40 DCR 6311; Nov. 19, 1995, 109 Stat. 504, Pub. L. 104-52, § 630(a); Apr. 9, 1997, D.C. Law 11-218, § 2(a), 43 DCR 6172; Sept. 30, 2004, D.C. Law 15-194, § 602(a), 51 DCR 9406; Mar. 2, 2007, D.C. Law 16-191, § 26, 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-356, § 3(a), 56 DCR 1614.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-607.

1973 Ed., § 4-521.

#### *Effect of Amendments*

D.C. Law 15-194 added par. (19).

D.C. Law 16-191, in par. (19), validated a previously made technical correction.

D.C. Law 17-356, in par. (1), designated subpar. (A) and added subpar. (B).

#### *Emergency Act Amendments*

For temporary amendment of section, see § 2(a) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 2(a) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

#### *Legislative History of Laws*

Law 1-87, the "Anti-Sex Discriminatory Language Act," was introduced in Council and assigned Bill No. 1-36, which was referred to the Committee on the Judiciary and Criminal Law. The Bill was adopted on first and second readings on June 15, 1976 and June 29, 1976, respectively. Signed by the Mayor on July 27, 1976, it was assigned Act No. 1-143 and transmitted to both Houses of Congress for its review.

Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Law 11-218, the "New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-316. The Bill was adopted on first and second readings on July 3, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 18, 1996, it was assigned Act No. 11-432 and transmitted to both Houses of Congress for its review. D.C. Law 11-218 became effective on April 9, 1997.

For Law 15-194, see notes following § 5-105.01.

For Law 16-191, see notes following § 5-113.07.

For Law 17-356, see notes following § 5-701.

#### *References in Text*

Title II of the Social Security Act, referred to in subdivision (1) of this section, is codified as 42 U.S.C. §§ 401 to 433.

Chapter 21 of the Internal Revenue Code of 1986, referred to in subdivision (1) of this section, is codified as 26 U.S.C. § 3101 et seq.

"Chapter 84 of title 5, United States Code," referred to in subdivision (1) of this section, is codified as 5 U.S.C. § 8401 et seq.

"This act," referred to at the end of paragraph (10) of this section, means the Act of September 1, 1916, ch. 433.

#### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### *Miscellaneous Notes*

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

Application of Titles I and VI of D.C. Law 15-194: Section 1301 of D.C. Law 15-194 provides:

"Titles I and VI of this act shall apply to pre-1980 employees of the Metropolitan Police Department and the Fire and Emergency Medical Services Department upon their enactment by Congress."

Section 4 of D.C. Law 17-356 provides that this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 17-356 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 17-356, are not in effect.

Law 17-358 amended this section subject to congressional enactment.

## **§ 5-702. APPLICATION OF AMENDMENTS TO §§ 5-701 AND 5-716.**

The amendments made by Pub. L. 96-122, § 206(a), to §§ 5-701 and 5-716 shall apply with respect to survivor annuities under this subchapter for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the 1st day of the 1st month which begins after the end of the 90-day period beginning on November 17, 1979.

(Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 206(b).)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-608.

1973 Ed., § 4-521.1.

## **§ 5-703. UNITED STATES SECRET SERVICE DIVISION; TRANSFER OF CIVIL SERVICE FUNDS; CREDIT FOR PRIOR SERVICE WITH OTHER POLICE FORCES.**

Whenever any member of the United States Secret Service Division has actively performed duties other than clerical for 10 years or more directly related to the protection of the President, such member shall be authorized to transfer all funds to his credit in the Civil Service Retirement and Disability Fund continued by §§ 8331(5) and 8348 of Title 5, United States Code, to the general revenues of the District of Columbia and after the transfer of such funds the salary of such member shall be subject to the same deductions for credit to the general revenues of the District of Columbia as the deductions from salaries of other members under this subchapter, and he shall be entitled to the same benefits as the other members to whom such sections apply. Any member of the United States Secret Service Division appointed from the United States Secret Service Uniformed Division and assigned to duties directly related to the protection of the President shall receive credit for periods of prior service with the Metropolitan Police force, the United States Park Police force, or the United States Secret Service Uniformed Division toward the required 10 years or more service.

(Sept. 1, 1916, ch. 433, § 12(b); Aug. 21, 1957, 71 Stat. 392, Pub. L. 85-157, § 3; Aug. 21, 1964, 78 Stat. 586, Pub. L. 88-476, § 1; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-609.

1973 Ed., § 4-522.

#### *Miscellaneous Notes*

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

## **§ 5-704. CREDITABLE SERVICE.**

(a) A member's service for the purposes of this subchapter shall mean all police or fire service and such military and government service as is authorized by such sections prior to the date of separation upon which title to annuity is based.

(b)(1) Each member shall be allowed credit for periods of military service served prior to the date of the separation upon which the annuity is based; however, if a member is awarded retired pay on account of military service, such military service shall not be included, unless such retired pay is awarded on account

of a service-connected disability:

(A) Incurred in combat with an enemy of the United States; or

(B) Caused by an instrumentality of war and incurred in line of duty during an enlistment or employment as provided in Veterans Regulation No. 1(a), part I, paragraph I, or is awarded under §§ 101, 676, 1001, 1332 to 1337, 1401, 3966, 6017, 6034, 6323, and 8966 of Title 10, United States Code.

(2) Nothing in this subchapter shall affect the rights of members to retired pay, pension, or compensation in addition to the annuity herein provided.

(c) Credit shall be allowed for leaves of absence granted a member while performing military service, excluding from credit so much of any other leaves of absence without pay as may exceed 6 months in the aggregate in any calendar year.

(d) A member who, during any war or national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service shall not be considered, for the purposes of this subchapter, as separated from his position by reason of such military service, unless he shall apply for and receive his salary deductions: Provided, that such member shall not be considered as retaining such position beyond December 31, 1957, or the expiration of 5 years of such military service, whichever is later.

(e)(1) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in paragraph (1) of § 5- 701, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with paragraph (2) of this subsection, with the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712. All other members shall deposit such sums with the District of Columbia Retirement Board for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in monthly installments not exceeding 24, except that in the case of a member who is an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, such monthly installments shall be of equal amounts. No deposit shall be required for days of unused sick leave credited under § 5-712.

(2) Interest required on deposits under this subsection for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

(A) Interest shall be paid at a rate which (as determined by the District of Columbia Retirement Board) is equal to the average rate of return on investment (adjusted to the nearest one eighth of 1%) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by § 1-712) for the period beginning on the 1st day of the 1st month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the 1st monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one eighth of 1%) shall be used in determining the interest rate to be paid on deposits under this subsection;

(B) Interest shall be payable for the period beginning on the 1st day of the 1st month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made; and

(C) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.

(f)(1) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this subchapter if such member files an election in accordance with paragraph (2) of this subsection and makes payments as described in paragraph (3) of this subsection. The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this subchapter if the period of time when such member is on approved leave is considered to be police or fire service under this subsection.

(2) To be eligible to have any period of approved leave described in paragraph (1) of this subsection considered to be police or fire service for purposes of this subchapter, a member described in such paragraph must, not later than the end of the 60-day period commencing on the day such member enters on such approved leave or the effective date of this subsection, whichever occurs later, file an



election with the District of Columbia Retirement Board to have such period of approved leave considered to be police or fire service for purposes of this subchapter.

(3)(A) To have any period of approved leave described in paragraph (1) of this subsection occurring after the effective date of this subchapter considered to be police or fire service, a member described in such paragraph must each month deposit with the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712 a sum equal to one-twelfth the annual new entrant normal cost of the annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave.

(B) To have any period of approved leave described in paragraph (1) of this subsection which occurred before the effective date of this subchapter considered to be police or fire service, a member described in such paragraph must deposit with the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712, in a manner to be determined by the District of Columbia Retirement Board, a sum equal to the new entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.

(C) The District of Columbia Retirement Board shall make an annual determination of the new entrant normal cost for purposes of subparagraphs (A) and (B) of this paragraph according to information supplied by the actuary retained pursuant to § 1-722.

(4) For purposes of this subsection, the term "labor organization" means any labor organization recognized as an exclusive representative of members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia for purposes of collective bargaining pursuant to § 1-617.10.

(g) The total service of a member shall be the full years and 12th parts thereof, excluding from the aggregate any fractional part of a month.

(h)(1) Except as provided in paragraph (2) of this subsection, notwithstanding any other provision of this section, any military service (other than military service covered by military leave with pay from a civilian position) performed by an individual after December 1956 shall be excluded in determining the aggregate period of service upon which an annuity payable under this act to such individual or to the surviving spouse or child is to be based, if such individual or the surviving spouse or child is entitled (or would upon proper application be entitled), at the time of such determination, to monthly old age or survivors benefits under § 202 of the Social Security Act based on such individual's wages and self-employment income. If in the case of the individual or the surviving spouse such military service is not excluded under the preceding sentence, but upon attaining retirement age (as defined in § 216(a) of the Social Security Act) he or she becomes entitled (or would upon proper application be entitled) to such benefits, the District of Columbia Retirement Board shall re-determine the aggregate period of service upon which such annuity is based, effective as of the 1st day of the month in which he or she attains such age, so as to exclude such service. The Secretary of Health and Human Services shall, upon the request of the Mayor, inform the Mayor whether or not any such individual or the surviving spouse or child is entitled at any specified time to such benefits; and the Mayor shall forward this information to the District of Columbia Retirement Board.

(2)(A)(i) Except as provided in sub-subparagraph (ii) of this subparagraph, and subject to subparagraph (D) of this paragraph, each member or former member who has performed military service before the date of the separation on which the entitlement to any annuity under this act is based may elect to retain credit for the service by paying (in accordance with such regulations as the District of Columbia Retirement Board shall issue) to the office by which the member is employed (or, in the case of a former member, to the appropriate benefits administrator) an amount equal to 7 percent of the amount of the basic pay paid under section 204 of title 37, United States Code, to the member for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the member may provide, or, if the District of Columbia Retirement Board determines sufficient evidence has not been so provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the District of Columbia Retirement Board under subparagraph (C) of this paragraph. Payment of such amount by an active member must be completed prior to the member's date of retirement or October 1, 2006, whichever is later, for the member to retain credit for the service.

(ii) In any case where military service interrupts creditable service under this section and reemployment pursuant to chapter 43 of title 38, United States Code, occurs on or after August 1, 1990, the deposit payable under this subparagraph may not exceed the amount that would have been deducted and withheld under this act from basic pay during the period of creditable service if the member had not performed the period of military service.

(B) Any deposit made under subparagraph (A) of this paragraph more than 2 years after the later of:

(i)(1) Any member who is an officer or member of the District of Columbia Fire and Emergency Medical

Services Department who was transferred pursuant to § 5-409.01, and who elects to, shall be covered by Chapter 9 of Title 1, and shall receive credit for prior years of service within the District of Columbia Fire and Emergency Medical Services Department as provided in subparagraphs (2), (3), and (4) of this subsection.

(2) Solely for the purposes of determining vesting and retirement eligibility, members shall receive credit for prior service with the District of Columbia Fire and Emergency Medical Services Department.

(3) Members shall be eligible to purchase benefit accrual service for some or all of the time they were employed by the District of Columbia Fire and Emergency Medical Services Department. The member shall deposit to the credit of the District of Columbia Police Officers and Fire Fighters' Retirement Fund an amount that is equal to the dollar increase in the present value of future benefits which results from crediting the prior service. The present value of future benefits shall be calculated on the actuarial assumptions and methods used to calculate the present value of future benefits pursuant to § 1-907.03(a)(3)(B) for the applicable fiscal year. Upon separation from District of Columbia employment for reasons other than retirement, any firefighter who purchased prior service credit shall receive that purchased amount along with any interest credited to the amount. Any firefighter who withdraws the purchased amount and is later reinstated shall not be entitled to this prior service credit until the purchased amount plus interest is again deposited.

(4) For the purposes of this section, the term "prior service" means any prior service in the District of Columbia Fire and Emergency Medical Services Department, regardless of whether there is a break in service.

(j) Service as a retired police officer hired pursuant to § 5-761, shall not count as creditable service for the purposes of this section.

(k)(1) An employee hired as a lateral law enforcement officer pursuant to § 1-610.72, shall be covered by Chapter 9 of Title 1. These lateral law enforcement officers shall be treated as new hires for retirement purposes and for the purposes of this section except as provided by law for federal government and military service and as provided by subparagraph (B) of this paragraph.

(2) In computing length of service of a retiring lateral law enforcement officer hired pursuant to § 1-610.72, credit shall be granted for prior law enforcement service outside the Metropolitan Police Department only if the lateral law enforcement officer has deposited to the credit of the Police Officers' and Firefighters' Retirement Fund an amount equal to the dollar increase in the present value of future benefits that results from crediting the prior service. The calculation of the present value of future benefits shall be based on the actuarial assumptions and methods used to calculate the present value of future benefits pursuant to § 1-907.03(a)(3)(B) for the applicable fiscal year. Upon separation from District law enforcement duty for reasons other than retirement, any law enforcement officer who purchased prior service credit shall receive that purchase amount along with any interest credited on the amount. Any law enforcement officer that withdraws the purchase amount and is later reinstated shall not be entitled to this prior service credit until the purchase amount plus interest is again deposited.

(l) Service as a former Metropolitan Police Department detective hired as a detective advisor pursuant to § 5-129.31 shall not count as creditable service for the purposes of this section.

(Sept. 1, 1916, ch. 433, § 12(c); Aug. 21, 1957, 71 Stat. 392, Pub. L. 85- 157, § 3; Aug. 29, 1972, 86 Stat. 641, Pub. L. 92-410, title II, § 201(a)(2); Oct. 1, 1976, D.C. Law 1-87, § 9, 23 DCR 2544; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 202(a), 208(a)(2); Mar. 24, 1990, D.C. Law 8-97, § 5, 37 DCR 1046; Oct. 3, 2001, D.C. Law 14-28, § 203, 48 DCR 6981; Nov. 22, 2003, 117 Stat. 1386, Pub. L. 108-133, § 2; Mar. 13, 2004, D.C. Law 15-105, § 39, 51 DCR 881; Apr. 13, 2005, D.C. Law 15-354, § 13(a), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 27(a), 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-356, § 3(b), 56 DCR 1614.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-610.

1973 Ed., § 4-523.

##### *Effect of Amendments*

D.C. Law 14-28 added subsec. (i).

Pub.L. 108-133, in subsec. (h), substituted "(h)(1) Except as provided in paragraph (2) of this subsection, notwithstanding" for "(h) Notwithstanding", and added paragraph (2).

D.C. Law 15-105 validated a previously made technical correction.

D.C. Law 15-354, in subsec. (e), substituted "District of Columbia Retirement Board" for "Mayor of the District of Columbia"; in subsec. (f)(3), substituted "District of Columbia Retirement Board" for "Mayor" ; in subsec.

(h)(1), substituted "the District of Columbia Retirement Board shall re-determine" for "the Mayor shall redetermine", and added "; and the Mayor shall forward this information to the District of Columbia Retirement Board" at the end of the last sentence; in subsec. (h)(2)(A)(i), substituted "District of Columbia Retirement Board" for "Mayor"; in subsec. (h)(2)(C), added "; and the Mayor shall forward this information to the District of Columbia Retirement Board" at the end of the last sentence; and added subsecs. (j), (k), and (l).

D.C. Law 16-191, in subsec. (l), validated a previously made technical correction.

D.C. Law 17-356 rewrote subsec. (i), which had read as follows:

"(i)(1) Any member who is an officer or member of the District of Columbia Fire and Emergency Medical Services Department who was transferred pursuant to § 5-409.01, and who elects to, shall be covered by Chapter 9 of Title 1, and shall receive credit for prior years of service within the District of Columbia Fire and Emergency Medical Services Department as provided in subparagraphs (2), (3), and (4) of this subsection.

"(2) Solely for the purposes of determining vesting and retirement eligibility, members shall receive credit for prior service with the District of Columbia Fire and Emergency Medical Services Department.

"(3) Members shall be eligible to purchase benefit accrual service for some or all of the time they were employed by the District of Columbia Fire and Emergency Medical Services Department. The member shall deposit to the credit of the District of Columbia Police Officers and Fire Fighters' Retirement Fund an amount that is equal to the dollar increase in the present value of future benefits which results from crediting the prior service. The present value of future benefits shall be calculated on the actuarial assumptions and methods used to calculate the present value of future benefits pursuant to § 1-907.03(a)(3)(B) for the applicable fiscal year. Upon separation from District of Columbia employment for reasons other than retirement, any firefighter who purchased prior service credit shall receive that purchased amount along with any interest credited to the amount. Any firefighter who withdraws the purchased amount and is later reinstated shall not be entitled to this prior service credit until the purchased amount plus interest is again deposited.

"(4) For the purposes of this section, the term 'prior service' means any prior service in the District of Columbia Fire and Emergency Medical Services Department, regardless of whether there is a break in service."

#### *Emergency Act Amendments*

For temporary eligibility of police officers retired from the Metropolitan Police Force to be rehired at the discretion of the Superintendent of the D.C. Public Schools as D.C. public school security personnel without jeopardy to their retirement benefits, see § 2 of the Retired Police Officer Public Schools Security Personnel Deployment Emergency Amendment Act of 1993 (D.C. Act 10-21, April 29, 1993, 40 DCR 2864).

For temporary (90 day) amendment of section, see § 203 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

#### *Legislative History of Laws*

For legislative history of D.C. Law 1-87, see Historical and Statutory Notes following § 5-701.

Law 8-97, the "District of Columbia Comprehensive Retirement Reform Amendments Act of 1989," was introduced in Council and assigned Bill No. 8-267, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 19, 1990, and January 16, 1990, respectively. Signed by the Mayor on January 26, 1990, it was assigned Act No. 8-149 and transmitted to both Houses of Congress for its review.

For Law 14-28, see notes following § 5-409.01.

For Law 15-105, see notes following § 5-409.01.

For Law 15-354, see notes following § 5-101.04.

For Law 16-191, see notes following § 5-113.07.

For Law 17-356, see notes following § 5-701.

#### *References in Text*

Veterans Regulation No. 1(a), part I, paragraph I, referred to in subsection (b)(1)(B) of this section, was promulgated by Executive Order No. 6156, June 6, 1933 and was repealed by the Act of June 17, 1957, 71 Stat. 167, Pub. L. 85-56, § 2202.

The "effective date of this subsection," referred to in subsection (f)(2), is prescribed by § 202(b) of the Act of November 17, 1979, 93 Stat. 914, Pub. L. 96-122.

The "effective date of §§ 5-701 to 5-724," referred to twice in subsection (f)(3), is prescribed by § 202(b) of the Act of November 17, 1979, 93 Stat. 914, Pub. L. 96-122.

Section 202 of the Social Security Act, referred to in subsection (h) of this section, is codified as 42 U.S.C. § 402.

Former subsection (a) of §216 of the Social Security Act, which defined retirement age and which is referred to in subsection (h) of this section, was repealed by § 102(c)(1) of the Act of June 30, 1961, 75 Stat. 134, Pub.

L. 87- 64. Retirement age is defined by 42 U.S.C. § 416(e).

"This act," referred to in subsection (h) of this section, means the Act of September 1, 1916, ch. 433.

Secretary of Health and Human Services, referred to in subsection (h) of this section, was substituted for Secretary of Health, Education and Welfare pursuant to the Act of October 17, 1979, 93 Stat. 695, Pub. L. 96-88, § 509.

#### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### *Miscellaneous Notes*

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

Section 4 of D.C. Law 17-356 provides that this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 17-356 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 17-356, are not in effect.

### **§ 5-705. APPLICATION OF AMENDMENT TO § 5-704.**

The amendments made by Pub. L. 96-122, § 208(a)(2), to § 5-704 shall not apply with respect to deposits made, in whole or in part, prior to the end of such 90-day period.

(Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 208(b).)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-611.

1973 Ed., § 4-523.1.

### **§ 5-706. DEDUCTIONS, DEPOSITS, AND REFUNDS; ORDER OF PERSONS ENTITLED TO REFUNDS FOR DEDUCTIONS.**

(a) On and after the first day of the first pay period which begins on or after October 26, 1970 there shall be deducted and withheld from each member's basic salary an amount equal to 7% of such basic salary for all members hired before the first day of the first pay period that begins after October 29, 1996, and 8% of such basic salary for all members hired on or after the first day of the first pay period that begins after October 29, 1996. In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the District of Columbia Retirement Board and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712; and in the case of any other member, such deductions and withholdings shall be paid to the Collector of Taxes of the District of Columbia, and shall be deposited in the Treasury to the credit of the District of Columbia.

(b)(1) Any member who is an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, who is separated from his department, except for retirement as authorized by this subchapter, shall be refunded the amount of the deductions made from his salary under such sections. The receipt of payment of such deductions by such member shall void all annuity rights under such sections, unless and until such member shall be reappointed to any department whose members come under such sections. If such officer or member is subsequently reappointed to any department whose members come under such sections, he shall be required to redeposit the amount of deductions so refunded to him.

(2) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of

the District of Columbia with less than 5 years of police or fire service who is separated from his department, except for retirement under § 5-709, § 5-710, or § 5-712, shall be refunded the amount of the deductions made from his salary under this subchapter. The receipt of payment of such deductions by such member shall void all annuity rights under this subchapter, except that if such member is subsequently reappointed to any department whose members come under this subchapter and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with § 5-717(c), then credit shall be allowed under this subchapter for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed 60 monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

(c) In order to facilitate the settlement of the accounts of each member coming under the provisions of this subchapter who dies prior to retirement leaving no survivor entitled to receive an annuity under the provisions of such sections, the District of Columbia Retirement Board shall pay all deductions for retirement made from the salary of such deceased member to the person or persons surviving at the time of death, in the following order of precedence, and such payment shall be a bar to recovery by any other person of amounts so paid:

- (1) To the beneficiary or beneficiaries designated in writing by such member, filed with the District of Columbia Retirement Board and received by him prior to the death of such member;
- (2) If there be no such beneficiary, to the child or children of such deceased member and the descendants of deceased children by representation;
- (3) If there be none of the above, to the parents of such member, or the survivor of them;
- (4) If there be none of the above, to the duly appointed legal representative of the estate of the deceased member, or if there be none to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased member; provided, that if no natural person is determined to be entitled thereto such payment shall escheat to the government of the District of Columbia, except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto.

(d) In order to facilitate the settlement of the accounts of each former member coming under the provisions of this subchapter who dies leaving no survivor entitled to receive an annuity under the provisions of this subchapter and before the aggregate amount of the annuity paid to such former member equals the total amount deducted and withheld for retirement from his salary as a member, the District of Columbia Retirement Board shall pay the difference to the person or persons surviving at the time of death in the following order of precedence, and such payment shall be a bar to recovery by any other person of the amount so paid:

- (1) To the beneficiary or beneficiaries designated in writing by such former member, filed with the District of Columbia Retirement Board and received by him prior to the death of such former member;
- (2) If there be no such beneficiary, to the child or children of such deceased former member and the descendants of deceased children by representation;
- (3) If there be none of the above, to the parents of such former member, or the survivor of them; and
- (4) If there be none of the above, to the duly appointed legal representative of the estate of the deceased former member, or if there be none to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased former member: provided, that if no natural person is determined to be entitled thereto such payment shall escheat to the government of the District of Columbia, except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto.

(e) Any individual withdrawing any distribution under this section, which distribution constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 135; 26 U.S.C. § 402(c)) ("Internal Revenue Code of 1986"), may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of the distribution paid directly to an eligible retirement plan, within the meaning of section 402(c) of the Internal Revenue Code of 1986, in a direct rollover.

(f) The District of Columbia Retirement Board shall be entrusted with any transfer from another retirement plan for the purchase of service credit, including transfers allowed by sections 403(b) and 457 of the Internal Revenue Code of 1986. Before any transfer is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986 governing the substantiation of proposed transfers for the purchase of service credit.

(g)(1) The District of Columbia Retirement Board shall also be entrusted with any rollover contribution from:

(A) A qualified plan described in section 401(a) or 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

(B) An annuity contract described in section 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

(C) An eligible plan under section 457(b) of the Internal Revenue Code of 1986 which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or

(D) Amounts transferred from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code of 1986 that is eligible to be rolled over and would otherwise be includible in gross income.

(2) The rollover shall be separately accounted for as member contributions that were not previously taxed. Before any rollover is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986 governing the substantiation of proposed rollover contributions. The rollover shall be used to purchase service credit in addition to service credit provided under the provisions of § 5-704.

(h) The District of Columbia Retirement Board shall administer the plan in the manner required to satisfy the applicable qualification requirements for a qualified governmental plan pursuant to the Internal Revenue Code of 1986. If a conflict should arise with a qualification requirement, the provision shall be interpreted in favor of maintaining the federal qualification requirements.

(i) The District of Columbia Retirement Board may adopt rules to implement this section.

(Sept. 1, 1916, ch. 433, § 12(d); Aug. 21, 1957, 71 Stat. 393, Pub. L. 85-157, § 3; Aug. 20, 1958, 72 Stat. 686, Pub. L. 85-693, § 1; Oct. 26, 1970, 84 Stat. 1136, Pub. L. 91-509, § 1(13); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 122(b)(1), 208(a)(1); Apr. 9, 1997, D.C. Law 11-218, § 2(b), 43 DCR 6172; Oct. 1, 2002, D.C. Law 14-190, § 3722(a), 49 DCR 6968; Mar. 13, 2004, D.C. Law 15-105, § 40(a), 51 DCR 881; Apr. 13, 2005, D.C. Law 15-354, § 13(b), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 27(b), 53 DCR 6794.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-612.

1973 Ed., § 4-524.

##### *Effect of Amendments*

D.C. Law 14-190 added subsecs. (e) to (i).

D.C. Law 15-105, in subsec. (i), validated a previously made technical correction.

D.C. Law 15-354 substituted "District of Columbia Retirement Board" for "Mayor"; and substituted "District of Columbia Retirement Board" for "Custodian of Retirement Funds".

D.C. Law 16-191, in subsec. (a), validated a previously made technical correction.

##### *Emergency Act Amendments*

For temporary amendment of section, see § 2(b) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 2(b) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

For temporary (90 day) amendment of section, see §§ 3622(a) and 3623 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

##### *Legislative History of Laws*

For legislative history of D.C. Law 10-135, see Historical and Statutory Notes following § 5-745.

For legislative history of D.C. Law 11-218, see Historical and Statutory Notes following § 5-701.

For Law 14-190, see notes following § 5-133.19.

For Law 15-105, see notes following § 5-409.01.

For Law 15-354, see notes following § 5-101.04.

For Law 16-191, see notes following § 5-113.07.

##### *References in Text*

The effective date of the Policemen and Firemen's Retirement and Disability Act Amendments of 1970, referred to in the first sentence of subsection (a) of this section, is prescribed by § 2 of the Act of October 26,

1970, 84 Stat. 1136, Pub. L. 91-509.

Section 403(b) of the Internal Revenue Code of 1986, referred to in subsec. (d)(6) and (7), is classified as 26 U.S.C.A. § 403(b).

Section 457 of the Internal Revenue Code of 1986, referred to in subsec. (d)(6) and (7)(A)(iii), is classified as 26 U.S.C.A. § 457.

Section 401(a) of the Internal Revenue Code of 1986, referred to in subsec. (d)(7)(A)(i), is classified as 26 U.S.C.A. § 401(a).

Section 408(a) or 408(b) of the Internal Revenue Code of 1986, referred to in subsec. (d)(7)(A)(iv), is classified as 26 U.S.C.A. § 408(a) or 408(b).

#### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### *Miscellaneous Notes*

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

Full Funding of Pension Liability Reform Amendment Act of 1994: Section 301 of D.C. Law 10-135 amended the first sentence of (a) by inserting "(or, with respect to a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, 8% for each pay period which begins on or after October 1, 1995)" following "7%."

Section 3723 of D.C. Law 14-190 provides: "This subtitle [subtitle B of title XXXVII, §§ 3721 to 3724, of D.C. Law 14-190] shall apply as of January 1, 2002."

Short title of subtitle B of title XXXVII of Law 14-190: Section 3721 of D.C. Law 14-190 provided that subtitle B of title XXXVII of the act may be cited as the Police and Fire Retirement Consolidation Amendment Act of 2002.

## **§ 5-707. PAYMENT OF MEDICAL EXPENSES--ACTIVE MEMBERS.**

Whenever any member shall become temporarily disabled by injury received or disease contracted in the performance of duty, to such an extent as to require medical or surgical services, other than such as can be rendered by the Mayor, or to require hospital treatment, the expense of such medical or surgical services, or hospital treatment, shall be paid by the District of Columbia; but no such expense shall be paid except upon a certificate of the Mayor setting forth the necessity for such services or treatment and the nature of the injury or disease which rendered the same necessary.

(Sept. 1, 1916, ch. 433, § 12(e); Aug. 21, 1957, 71 Stat. 394, Pub. L. 85-157, § 3.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-613.

1973 Ed., § 4-525.

#### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate

changes in terminology were made in this section.

*Miscellaneous Notes*

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

## **§ 5-708. PAYMENT OF MEDICAL EXPENSES--TOTAL DISABILITY RETIREES.**

(a) Subject to the provisions of subsection (b) of this section, the District of Columbia shall pay the reasonable costs of medical, surgical, hospital, or other related health care services of any officer or member of the Metropolitan Police force of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division who:

(1) Retires after August 16, 1971, under § 5-710; and

(2) At the time of such retirement, has a disability caused by injury or disease contracted or aggravated in the line of duty, which is determined by, or under regulations of, the Mayor of the District of Columbia (hereafter in this section referred to as the "Mayor") to be a total disability.

(b) No payment may be made under this section for medical, surgical, hospital, or other related health care services provided a retired officer or member unless:

(1) At the time such services are provided the disability of the retired officer or member has been determined by, or under regulations of, the Mayor to be a total disability;

(2) Such services have been determined by, or under regulations of, the Mayor to be necessary and directly related to the treatment of the injury or disease which caused the disability of the retired officer or member; and

(3) The retired officer or member submits to such medical examinations as the Mayor may require.

(c) The Mayor may determine that the disability of a retired officer or member is a total disability only if the Mayor finds that the retired officer or member is unable (because of the injury or disease causing his disability) to secure or follow substantially gainful employment. In determining whether employment is substantially gainful employment, the Mayor shall take into account the amount of expenses incurred by, or which can reasonably be expected to be incurred by, the retired officer or member in securing the medical, surgical, hospital, or other related health care services necessitated by his disability, and such other factors as the Mayor deems advisable.

(d) In addition to any medical examination required under this subchapter, the Mayor shall require, in each year that payments under this section are made with respect to any retired officer or member, a medical review of the disability of such retired officer or member.

(e) The Mayor may provide for payments under this section to be made either directly to the retired officer or member or to the provider of the medical, surgical, hospital, or other related health care services.

(f) The Mayor shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(g) There are authorized to be appropriated from revenues of the United States such sums as may be necessary to reimburse the District of Columbia, on a monthly basis, for payments made under this section from revenues of the District of Columbia in the case of retired officers or members of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division.

(Aug. 16, 1971, 85 Stat. 341, Pub. L. 92-121, §§ 1-3; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 4-614.

1973 Ed., § 4-525a.

*Change in Government*

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

## **§ 5-708.01. PROCESSING CLAIMS OF INJURIES ALLEGEDLY SUSTAINED WITHIN THE PERFORMANCE OF DUTY.**

(a) For the purposes of this section, the term:

- (1) "Department" means the Metropolitan Police Department or the Fire and Emergency Medical Services Department.
- (2) "Director" means either the director of medical services for the Metropolitan Police Department, or the medical services officer for the Fire and Emergency Medical Services Department.
- (3) "Member" means a sworn employee of the Metropolitan Police Department or the Fire and Emergency Medical Services Department.

(b) The Director shall determine, based on a review of the unit commander's report on the cause of the injury or illness and after consultation with the Police and Fire Clinic physicians on the nature of the injury or illness, whether a member's injury or illness was sustained by the member in the performance of duty within 30 calendar days of a claim being reported to the Department. If the Director fails to meet the 30-day deadline, there shall be a rebuttable presumption that the member's injury or illness was sustained in the performance of duty. Until the presumption is rebutted by a finding by the Director that the injury or illness was not sustained in the performance of duty, the member's Department shall be responsible for all treatment costs and disability compensation pay.

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(e-1), as added Sept. 30, 2004, D.C. Law 15-194, § 602(b), 51 DCR 9406; Mar. 2, 2007, D.C. Law 16-191, § 27(c), 53 DCR 6794.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Effect of Amendments*

D.C. Law 16-191 validated a previously made technical correction.

#### *Legislative History of Laws*

For Law 15-194, see notes following § 5-105.01.

For Law 16-191, see notes following § 5-113.07.

### *Miscellaneous Notes*

Application of Titles I and VI of D.C. Law 15-194: Section 1301 of D.C. Law 15-194 provides:

"Titles I and VI of this act shall apply to pre-1980 employees of the Metropolitan Police Department and the Fire and Emergency Medical Services Department upon their enactment by Congress."

## **§ 5-709. RETIREMENT FOR DISABILITY--NOT INCURRED IN PERFORMANCE OF DUTY.**

(a) Except as provided in subsections (b) and (c) of this section, whenever any member coming under this subchapter completes 5 years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity computed at the rate of 2% of his average pay for each year or portion thereof of his service; provided, that such annuity shall not exceed 70% of his average pay; provided further, that the annuity of a member retiring under this section shall be at least 40% of his average pay.

(b) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the 90-day period beginning on November 17, 1979, completes 5 years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70% of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with § 5-710(e)(2)(B), except that such annuity shall not be less than 30% of his basic salary at the time of retirement.

(c) Whenever the Board of Police and Fire Surgeons receives a recommendation from the Director for a disability retirement of a Metropolitan Police Department or Fire and Emergency Medical Services

Department member pursuant to Chapter 6A of this title, the Board of Police and Fire Surgeons shall make a disability assessment, and if the member is unable to perform the full range of duties, shall retire the member as disabled regardless of whether the member is performing useful and efficient services that are less than the full range of duties. The member shall be retired on an annuity determined in accordance with subsection (b) of this section.

(Sept. 1, 1916, ch. 433, § 12(f); Aug. 21, 1957, 71 Stat. 394, Pub. L. 85-157, § 3; Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(b)(1); Jan. 3, 1975, 88 Stat. 2177, Pub. L. 93-635, § 10(a); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 204(b)(1); Sept. 30, 2004, D.C. Law 15-194, § 602(c), 51 DCR 9406.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-615.

1973 Ed., § 4-526.

##### *Effect of Amendments*

D.C. Law 15-194, in subsec. (a), substituted "subsections (b) and (c)" for "subsection (b)"; and added subsec. (c).

##### *Legislative History of Laws*

For Law 15-194, see notes following § 5-105.01.

##### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

##### *Miscellaneous Notes*

Application of Titles I and VI of D.C. Law 15-194: Section 1301 of D.C. Law 15-194 provides:

"Titles I and VI of this act shall apply to pre-1980 employees of the Metropolitan Police Department and the Fire and Emergency Medical Services Department upon their enactment by Congress."

## **§ 5-710. RETIREMENT FOR DISABILITY--INCURRED OR AGGRAVATED IN PERFORMANCE OF DUTY.**

(a) Except as provided in subsections (e) and (e-1) of this section, whenever any member is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall, upon retirement for such disability, receive an annuity computed at the rate of 2 1/2 of his average pay for each year or portion thereof of his service; provided, that such annuity shall not exceed 70% of his average pay, nor shall it be less than 66 2/3 of his average pay.

(b) In any case involving a member who is an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, in which the proximate cause of injury incurred or disease contracted by the member is doubtful, or is shown to be other than the performance of duty, and such injury or disease is shown to have been aggravated by the performance of duty to such an extent that the member is permanently disabled for the performance of duty, such disability shall be construed to have been incurred in the performance of duty. The member shall, upon retirement for such disability, receive an annuity computed at the rate of 2 1/2 of his average pay for each year or portion thereof of his service; provided, that such annuity shall not exceed 70% of his average pay, nor shall it be less than 66 2/3 of his average pay.

(c) A member shall be retired under this section only upon the recommendation of the Board of Police and Fire Surgeons and the concurrence therein by the Mayor, except that in any case in which a member seeks his own retirement under this section, he shall, in the absence of such recommendation, provide the necessary evidence to form the basis for the approval of such retirement by the Mayor.

(d)(1) A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia may not retire and receive an annuity under this section on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of

duty unless:

(A) In the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within 30 days after the disease was first diagnosed; or

(B) In the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within 7 days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such 7-day period, within 7 days after the member became able (as determined by such Board) to report the injury.

(2) The burden of establishing inability to report an injury in accordance with subparagraph (B) of paragraph (1) of this subsection within 7 days after such injury was incurred and of establishing that such injury was reported within 7 days after the end of such inability shall be on the member claiming such inability. Any report under this subsection shall include adequate medical documentation. Nothing in this subsection shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of an injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.

(e)(1) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the 90-day period beginning on November 17, 1979, is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with paragraph (2) of this subsection.

(2)(A) In the case of any member who retires under this subsection or subsection (b) of § 4-615, the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

(B) In the case of any member described in subparagraph (A) of this paragraph, the Police and Firemen's Retirement and Relief Board shall determine within a reasonable time the percentage of disability for such member giving due regard to:

(i) The nature of the injury or disease;

(ii) The percentage of impairment reported pursuant to subparagraph (A) of this paragraph;

(iii) The position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement;

(iv) The age and years of service of the member; and

(v) Any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

(C) The percentage of impairment or the percentage of disability for a member to whom this subsection applies may be redetermined at any time prior to the time such member reaches the age of 50 and his annuity shall be adjusted accordingly.

(D) The annuity of a member who is retired under this subsection shall be 70% of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subparagraph (B) of this paragraph, except that such annuity shall not be less than 40% of his basic salary at the time of retirement.

(E) For purposes of this subsection:

(i) The term "impairment" means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved.

(ii) The term "disability" means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment.

(e-1) Whenever the Board of Police and Fire Surgeons receives a recommendation from the Director for a disability retirement of a Metropolitan Police Department or Fire and Emergency Medical Services Department member pursuant to Chapter 6A of this title, the Board of Police and Fire Surgeons shall make a disability assessment and, if the member is unable to perform the full range of duties, shall retire the member as disabled regardless of whether the member is performing useful and efficient services that are less than the full range of duties. The member shall be retired on an annuity determined in accordance with subsection (e)(2) of this section.

(f) Not later than 90 days after November 17, 1979, the Board of Police and Fire Surgeons shall submit to the Mayor recommendations for regulations to establish specific criteria for determining whether an injury was incurred, or a disease was contracted, in the performance of duty and whether an injury or disease was aggravated in the performance of duty. The Mayor shall promulgate regulations establishing such criteria in a timely manner based on the recommendations of the Board.

(g)(1) In making determinations under this section and under § 4-615, the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall make full use of the medical resources in the District of Columbia and shall make the widest practical use of the medical expertise available to them consistent with fair and even administration of Chapter 7 of Title 1.

(2) Not later than 90 days after November 17, 1979, the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall each submit to the Mayor recommendations for regulations to carry out the requirements of paragraph (1) of this subsection. The Mayor shall, in a timely manner and based on the recommendations of such Boards, promulgate regulations to carry out the requirements of such paragraph.

(3) Failure to promulgate such regulations, or failure to comply with such regulations, shall not invalidate any decision of the Mayor or the Police and Firemen's Retirement and Relief Board with respect to the retirement of any individual.

(Sept. 1, 1916, ch. 433, § 12(g); Aug. 21, 1957, 71 Stat. 394, Pub. L. 85-157, § 3; Oct. 23, 1962, 76 Stat. 1133, Pub. L. 87-857, § 1; Oct. 26, 1970, 84 Stat. 1137, Pub. L. 91-509, § 1(4); Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(b)(1), (2), (c); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 204(a), (b)(2), 213; Sept. 30, 2004, D.C. Law 15-194, § 602(d), 51 DCR 9406.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-616.

1973 Ed., § 4-527.

##### *Effect of Amendments*

D.C. Law 15-194, in subsec. (a), substituted "subsections (e) and (e-1)" for "subsection (e)"; and added subsec. (e-1).

##### *Legislative History of Laws*

For Law 15-194, see notes following § 5-105.01.

##### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

##### *Miscellaneous Notes*

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

Application of Titles I and VI of D.C. Law 15-194: Section 1301 of D.C. Law 15-194 provides:

"Titles I and VI of this act shall apply to pre-1980 employees of the Metropolitan Police Department and the Fire and Emergency Medical Services Department upon their enactment by Congress."

## **§ 5-711. APPLICATION OF AMENDMENT TO § 5-710.**

The amendment made by Pub. L. 96-122, § 204(a)(1), to § 5-710 shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who apply for disability retirement under § 5-710 prior to the end of the 90-day period beginning on November 17, 1979. The amendment made by Pub. L. 96-122, § 204(a)(2), to § 5-710 shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such 90-day period.

(Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 204(c).)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

## **§ 5-712. OPTIONAL RETIREMENT.**

(a) Any member who first becomes employed on or after the first day of the first pay period that begins after October 29, 1996, and who completes 25 years of service, and gives at least 60 days written advanced notice to his department stating his intention to retire and stating the date of which he will retire, may voluntarily retire from the service and shall be entitled to an annuity computed at a rate of 2.5% of the member's average pay times the number of years of the member's creditable service; provided that such notice requirement may be waived by the department head when, in his opinion, circumstances justify such waiver; provided further, that whenever the Mayor shall determine that there exists an emergency which is likely to endanger the safety of the public and that the public safety cannot be adequately protected except by suspending the retirement provisions of this subsection, then the Mayor shall be authorized, upon notice to the District of Columbia Retirement Board, to suspend the retirement provisions of this subsection in any 1 or more of the departments under his jurisdiction until such time as, in the opinion of the Mayor, public safety can be adequately protected without such suspension. Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the 90-day period beginning on November 17, 1979, and who completes 25 years of police or fire service and attains the age of 50 years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such 90-day period) who completes 20 years of police or fire service may, after giving at least 60 days written advance notice to his department head stating his intention to retire and stating the date on which he will retire, voluntarily retire from the service and shall be entitled to an annuity computed at the rate of 2 1/2 of his average pay for each year of service; except that the rate of 3% of his average pay shall be used to compute each year's police or fire service in excess of:

(1) Twenty-five years, in the case of a member who becomes a member after the end of such 90-day period; or

(2) Twenty years, in the case of any other member; provided that such notice requirement may be waived by the department head when, in his opinion, circumstances justify such waiver; provided further, that whenever the Mayor or the Chief of the United States Secret Service Uniformed Division, or the Chief of the United States Park Police force, or the Chief of the United States Secret Service Division shall determine that there exists an emergency which is likely to endanger the safety of the public and that the public safety cannot be adequately protected except by suspending the retirement provisions of this subsection, then the Mayor or any of said Chiefs shall be authorized to suspend the retirement provisions of this subsection in any 1 or more of the departments under their respective jurisdictions until such time as, in the opinion of the Mayor or any of said Chiefs, respectively, public safety can be adequately protected without such suspension.

(a-1) For the purposes of the first sentence of subsection (a) of this section, the term "creditable service" means the period of employment with the Metropolitan Police Department for police officers and the Fire Department of the District of Columbia for fire fighters first employed on or after the first day of the first pay period which begins after October 29, 1996, and includes any United States military service including the following:

(1) Credit for periods of military service prior to the member's date of separation, that interrupts the member's service with the Department, unless the member applies for and receives a refund of the member's salary deductions; and

(2) Credit for any period of time during which a member is on approved leave without pay to serve as a full-time officer or employee of a labor organization.

(a-2) Notwithstanding any other law, rule, or regulation, sworn members of the Metropolitan Police Department and the Fire and Emergency Medical Services Department hired before or on September 11, 2008, may make a one-time election, at their option, in writing, to participate in one of the retirement programs created by subsection (a) of this section; provided, that any and all additional costs above the costs which would otherwise be incurred by the District for that sworn member pursuant to subsection (a) of this section shall be paid by the member, as determined by actuaries appointed by the District of Columbia. The District shall not be responsible for any additional administrative or program costs associated with a retirement program transfer authorized by this subsection. All costs associated with the transfer to a new retirement program under this subsection shall be borne by the member.

(a-3) Notwithstanding any other law, rule, or regulation, sworn members of the Metropolitan Police Department and the Fire and Emergency Medical Services Department hired after September 11, 2008, shall make a one-time election, at their option, in writing, to participate in one of the retirement programs created by subsection (a) of this section; provided, that any and all additional costs above the costs which would otherwise be incurred by the District for that sworn member pursuant to subsection (a) of this

section shall be paid by the member, as determined by actuaries appointed by the District of Columbia. The District shall not be responsible for any additional administrative or program costs associated with a retirement program selection authorized by this subsection. All costs associated with the selection of a retirement program under this subsection shall be borne by the member.

(b) Any member of the Metropolitan Police force or of the Fire Department of the District of Columbia having reached the age of 60 years shall, in the discretion of the Mayor, and any member of the United States Secret Service Uniformed Division or of the United States Park Police force or of the United States Secret Service Division to whom this subchapter apply shall, in the discretion of the head of his department, be retired from the service and shall be entitled to receive an annuity as computed under subsection (a) of this section.

(c) No annuity granted under subsection (a) or (b) of this section shall exceed 80% of the average pay of such member.

(d) In computing an annuity under this section, the police or fire service of a member who has not retired prior to the effective date of this subsection shall include, without regard to the limitation imposed by subsection (c) of this section, the days of unused sick leave credited to him. Days of unused sick leave shall not be counted in determining a member's eligibility for an annuity under this section.

(e) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes 18 years of police or fire service may voluntarily retire from the service on or before December 31, 1980, and shall be entitled to an annuity computed at the rate of 2 1/2 of the average pay of such member or officer for each year of service; provided, that the amortization payment to the District of Columbia Retirement Board for the District of Columbia Police Officers and Fire Fighters' Retirement Fund shall be made from appropriations of the Metropolitan Police and Fire Departments.

(f) Notwithstanding the first sentence of subsection (a) of this section, Charles H. Ramsey, Chief of Police, may voluntarily retire from the service and, effective April 21, 1998, the date of his appointment as Chief of Police, shall be entitled to an annuity computed at a rate of 3.43% of his average pay times the number of years of his creditable service.

(g) Notwithstanding the first sentence of subsection (a) of this section, at the time that Chief of Police Cathy L. Lanier voluntarily retires or is otherwise separated from the Metropolitan Police Department, she shall be entitled to an annuity computed at 71.5% of her average highest base pay for 36 consecutive months, including longevity payments.

(Sept. 1, 1916, ch. 433, § 12(h); Aug. 21, 1957, 71 Stat. 395, Pub. L. 85- 157, § 3; Oct. 26, 1970, 84 Stat. 1137, Pub. L. 91-509, § 1(5), (6); Aug. 29, 1972, 86 Stat. 641, Pub. L. 92-410, title II, § 201(a)(3); Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(b)(1)-(3); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 203; Mar. 4, 1981, D.C. Law 3-128, § 8, 28 DCR 246; Mar. 5, 1981, D.C. Law 3-133, § 4, 27 DCR 4417; Apr. 9, 1997, D.C. Law 11-218, § 2(c), 43 DCR 6172; Apr. 13, 2005, D.C. Law 15-354, § 13(c), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 27(d), 53 DCR 6794; Mar. 2, 2007, D.C. Law 16-199, § 4, 53 DCR 8832; May 13, 2008, D.C. Law 17-154, § 7, 55 DCR 3678; Sept. 11, 2008, D.C. Law 17-224, § 2, 55 DCR 8299.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-618.

1973 Ed., § 4-528.

##### *Effect of Amendments*

D.C. Law 15-354, in subsec. (a), added "upon notice to the District of Columbia Retirement Board".

D.C. Law 16-191, in subsec. (a), validated a previously made technical correction.

D.C. Law 16-199 added subsec. (f).

D.C. Law 17-154 added subsec. (g).

D.C. Law 17-224 added subsecs. (a-2) and (a-3).

##### *Emergency Act Amendments*

For temporary amendment of section, see § 2(c) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 2(c) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

##### *Legislative History of Laws*

Law 3-128, the "Closing of a Portion of a Public Alley in Square 5263; the Police Officers, Firefighters, and Teachers Retirement Amendments; the District of Columbia Depository Act of 1977 Amendments; and the

District of Columbia Motor-Vehicle Fuel and Sales Tax Act and the District of Columbia Sales Tax Act Amendments of 1980 Act of 1980," was introduced in Council and assigned Bill No. 3-394, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on January 7, 1981, it was assigned Act No. 3-337 and transmitted to both Houses of Congress for its review.

Law 3-133, the "Securities Act Amendments, Personnel Act Clarification, and Voluntary Retirement Act of 1980," was introduced in Council and assigned Bill No. 3-273, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on July 29, 1980, and September 16, 1980, respectively. Signed by the Mayor on October 2, 1980, it was assigned Act No. 3-254 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 11-218, see Historical and Statutory Notes following § 5-701.

For Law 15-354, see notes following § 5-101.04.

For Law 16-191, see notes following § 5-113.07.

For Law 16-199, see notes following § 5-105.01.

For Law 17-154, see notes following § 5-105.01.

Law 17-224, the "Metropolitan Police Department Retirement Options Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-460, which was referred to the Committee of Public Safety and Judiciary. The Bill was adopted on first and second readings on June 3, 2008, and July 1, 2008, respectively. Signed by the Mayor on July 16, 2008, it was assigned Act No. 17-444 and transmitted to both Houses of Congress for its review. D.C. Law 17- 224 became effective on September 11, 2008.

#### *References in Text*

The phrase "the effective date of this subsection," referred to in the first sentence of (d), is prescribed by § 201(b) of Pub. L. 92-410, effective August 29, 1972, which states, that in part, "The amendments made by paragraphs (2) and (3) of subsection [(a)] shall be effective on the first day of the first pay period beginning on or after the date of enactment of this title."

#### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### *Miscellaneous Notes*

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

## **§ 5-713. INVOLUNTARY SEPARATION FROM SERVICE.**

If any member is injured or contracts a disease during his first 5 years of service in his department which, in the judgment of the Board of Police and Fire Surgeons, disables him from performing further duty in his department, and if the Police and Firemen's Retirement and Relief Board finds that such injury or disease was not incurred in the performance of duty in his department, such member shall, upon the approval of such finding by the head of his department, and without regard for the provisions of any other law or regulation, be separated from the service.

(Sept. 1, 1916, ch. 433, § 12(i); Aug. 21, 1957, 71 Stat. 395, Pub. L. 85- 157, § 3.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-619.

1973 Ed., § 4-529.

##### *Miscellaneous Notes*

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this

## **§ 5-714. RECOVERY FROM DISABILITY; RESTORATION TO EARNING CAPACITY; SUSPENSION OR REDUCTION OF ANNUITY.**

(a)(1) If any annuitant retired under § 5-709 or § 5-710, before reaching the age of 50, recovers from his disability or is restored to an earning capacity fairly comparable to the current rate of compensation of the position occupied at the time of retirement, payment of the annuity shall cease:

- (A) Upon reemployment in the department from which he was retired;
- (B) Forty-five days from the date of the medical examination showing such recovery;
- (C) Forty-five days from the date of the determination that he is so restored; or
- (D) In the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department and who first became such a member after the end of the 90-day period beginning on November 17, 1979, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement, whichever is earliest.

(2) Earning capacity shall be deemed restored if, in each of 2 succeeding calendar years in the case of an annuitant who was an officer or member of the United States Park Police force, United State Secret Service Uniformed Division, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department, the income of the annuitant from wages or self-employment or both shall be equal to at least 80% of the current rate of compensation of the position occupied immediately prior to retirement. Nothing in this section shall preclude such member from having an annuity reestablished if his disability recurs, or when his earning capacity is less than 80% of the rate of compensation of the position occupied immediately prior to retirement for any full year thereafter; provided, that whenever any member is reinstated with his respective department it shall be at the same grade or rank held by the member at the time of his retirement.

(b) When an annuitant recovers prior to age 50 from a disabling condition for which he has been retired, and applies for reinstatement in the department from which he was retired, he shall be reinstated in the same or nearest equivalent grade and salary available as that received at the time of his separation from the service; provided, that such applicant meets the current entrance requirements of such department as to character.

(c)(1) If any annuitant who is retired under § 5-709 or § 5-710, who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department, and who first became such a member after the end of the 90-day period beginning on November 17, 1979, receives, directly or indirectly, income from wages or self-employment, or both, in any calendar year after the calendar year in which he retired:

(A) In an amount in excess of the difference between 70% of the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such section prior to the reductions provided for in this subsection, then (except as provided in paragraph (4) of this subsection) the annuity of such annuitant shall be reduced by \$.50 for each \$1 of such income received during such year in excess of such difference; and

(B) In an amount in excess of the difference between the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such section prior to the reductions provided for in this paragraph, then (except as provided in paragraph (4) of this subsection) the annuity of such annuitant shall be further reduced by \$.20 for each \$1 of such income received during such year in excess of such difference.

(2) For the purposes of paragraph (1) of this subsection, the term "current earnings limitation," with respect to an annuitant, means the greater of:

- (A) The current annual salary for the position which such annuitant held immediately prior to the retirement of such annuitant; or
- (B) The current entry level salary for active officers and members, divided by .7.

(3) The reductions provided for in paragraph (1) of this subsection shall be made as follows:

- (A) Such reductions shall be prorated over a period of 12 consecutive months, with equal amounts withheld from each payment of annuity during such 12-month period; and
- (B) The 12-month period during which such reduction is made shall begin as soon after the end of the calendar year involved as is administratively practicable (as determined in accordance with regulations which the District of Columbia Retirement Board shall promulgate).

(4) If the District of Columbia Retirement Board determines that the level of income of an annuitant whose annuity would otherwise be reduced in accordance with paragraph (1) of this subsection has



decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the District of Columbia Retirement Board may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in such paragraph as the District of Columbia Retirement Board considers appropriate or the District of Columbia Retirement Board may waive the requirements of paragraph (1) of this subsection if he finds that circumstances justify such waiver.

(5)(A) Any annuitant who is retired under § 5-709 or § 5-710 and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department shall, at such times as the District of Columbia Retirement Board shall by regulation prescribe, submit to the District of Columbia Retirement Board a notarized statement containing such information as the District of Columbia Retirement Board shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the District of Columbia Retirement Board may require such annuitant to submit to the District of Columbia Retirement Board a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the District of Columbia Retirement Board deems appropriate.

(B) Any annuitant described in subparagraph (A) of this paragraph who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such subparagraph shall forfeit all rights to his disability annuity. Any such annuitant who refuses or otherwise willfully fails to timely submit such statement as required by this section, payment of the annuity of such annuitant shall cease and such annuitant shall not be eligible to receive such annuity or part thereof for the period beginning on the date after the final day for timely filing of such statement and ending on the date on which the District of Columbia Retirement Board receives such statement. Nothing in this subparagraph shall affect any rights to a survivor's annuity under § 5-716 based upon the service of such annuitant.

(Sept. 1, 1916, ch. 433, § 12(j); Aug. 21, 1957, 71 Stat. 396, Pub. L. 85-157, § 3; Oct. 26, 1970, 84 Stat. 1137, Pub. L. 91-509, § 1(7); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 205(a); Apr. 13, 2005, D.C. Law 15-354, § 13(d), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 27(e), 53 DCR 6794; Mar. 2, 2007, D.C. Law 16-199, § 4, 53 DCR 8832.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-620.

1973 Ed., § 4-530.

##### *Effect of Amendments*

D.C. Law 15-354 substituted "District of Columbia Retirement Board" for "Mayor".

D.C. Law 16-191, in subsecs. (a) and (c), substituted "Fire Department" for "Fire Department of the District of Columbia".

##### *Legislative History of Laws*

For Law 15-354, see notes following § 5-101.04.

For Law 16-191, see notes following § 5-113.07.

##### *Miscellaneous Notes*

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

## **§ 5-715. APPLICATION OF AMENDMENT TO § 5-714.**

The amendment made by Pub. L. 96-122, § 205(a)(2)(B), to § 5-714 shall apply with respect to income from wages or self-employment, or both, received directly or indirectly during calendar year 1979 or the calendar year after the year in which the member retires, whichever is later, and any calendar year thereafter.

(Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 205(c).)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-621.

## **§ 5-716. SURVIVOR BENEFITS AND ANNUITIES.**

(a) If any member:

(1) dies in the performance of duty and the Mayor determines that:

(A) the member's death was the sole and direct result of a personal injury sustained while performing such duty;

(B) his death was not caused by his willful misconduct or by his intention to bring about his own death; and

(C) intoxication of the member was not the proximate cause of his death; and

(2) is survived by a survivor, parent, or sibling, a lump-sum payment of \$50,000 shall be made to his survivor if the survivor received more than one half of his support from such member, or if such member is not survived by any survivor (including a survivor who did not receive more than one half of his support from such member), to his parent or sibling if the parent or sibling received more than one half of his support from such member. If such member is survived by more than 1 survivor entitled to receive such payment, each such survivor shall be entitled to receive an equal share of such payment; or if such member leaves no survivor and more than 1 parent or sibling who is entitled to receive such payment, each such parent or sibling shall be entitled to receive an equal share of such payment.

(a-1) In the case of any member who dies in the performance of duty after December 29, 1993, and leaves a widow or widower entitled to all or a portion of the benefit described in subsection (a) of this section, an additional annuity shall be paid. This annuity shall be equal to 100% of the member's pay at the time of death. The annuity shall be increased at the same rate as the change in the Consumer Price Index, as described in § 5-721. This benefit shall be paid in lieu of benefits provided for by subsections (b) and (c) of this section. However, after benefits provided for in this paragraph end, as provided in subsection (e) of this section, any remaining benefit pursuant to subsection (c) of this section shall commence to be paid.

(a-2) The determination of the Mayor authorized by subsection (a) of this section shall be subject to review and final determination by the District of Columbia Retirement Board.

(b) In case of the death of any member before retirement, of any former member after retirement, or of any member entitled to receive an annuity under § 5-717 (regardless of whether such member is receiving such annuity at the time of death), leaving a widow or widower, such widow or widower shall be entitled to receive an annuity in the greater amount of:

(1) Forty per centum of such member's average pay at the time of death, or 40%:

(A) Of the adjusted average pay of such former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division; or

(B) Of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia; or

(2) Forty per centum of the corresponding salary for step 6 of salary class 1 of the District of Columbia Police and Firemen's Salary Act salary schedule currently in effect at the time of such member or former member's death, or, for a member who was an officer or member of the United States Secret Service Uniformed Division, or the United States Secret Service Division, 40 percent of the corresponding salary for step 5 of the Officer rank in section 10203 of title 5, United States Code; provided, that such annuity shall not exceed the current rate of compensation of the position occupied by such member at the time of death, or by such former member immediately prior to retirement.

(c) Each surviving child or student child of any member who dies before retirement, of any former member who dies after retirement, or of any member entitled to receive an annuity under § 5-717 (regardless of whether such member is receiving such annuity at the time of death), shall be entitled to receive an annuity equal to the smallest of:

(1) In the case of a member or former member who is survived by a wife or husband:

(A) Sixty per centum of:

(i) The member's average pay at the time of death; or

(ii) The adjusted average pay of the former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, divided by the number of eligible children;

(B) \$2,918.00, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5-718; or

(C) \$8,754.00, divided by the number of eligible children, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5-718, divided by the number of eligible children; and

(2) In the case of a member or former member who is not survived by a wife or husband:

(A) 75% of the member's average pay at the time of death, divided by the number of eligible children;

(B) In the case of a member who was an officer or member of the United States Park Police Force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, 75% of the adjusted average pay of the former member, divided by the number of eligible children; or

(C) In the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, 75% of the adjusted average pay of the former member, divided by the number of eligible children.

(d) Each widow or widower who, on the effective date of the Policemen and Firemen's Retirement and Disability Act Amendments of 1970, was receiving relief or annuity computed in accordance with the provisions of this section shall be entitled to receive an annuity in the greater amount of: (1) \$3,144; or (2) thirty-five per centum of the basis upon which such relief or annuity was computed. Each child who, on October 3, 2001, was receiving relief or annuity computed in accordance with the provisions of this section, shall be entitled to benefits computed in accordance with the provisions of subsection (c) of this section.

(e)(1) The annuity of the widow or widower under this section shall begin on the day after the date on which the member or former member dies, and such annuity or any right thereto shall terminate upon the survivor's death or remarriage before age 60; provided, that any annuity terminated by remarriage may be restored if such remarriage is later terminated by death, annulment, or divorce.

(2) The annuity of any child under this section shall begin on the day after the date on which the member or former member dies, and the annuity shall terminate upon whichever of the following occurs first:

(A) The child becomes 18 years of age or, if over 18 years of age and incapable of self-support, becomes capable of self-support;

(B) The child marries; or

(C) The child dies.

(3)(A) The annuity of any student child under this section shall begin on the day after the date on which the member or former member dies, and the annuity shall terminate upon whichever of the following occurs first:

(i) The student child marries;

(ii) The student child ceases to be a student;

(iii) The student child reaches 22 years of age; or

(iv) The student child dies.

(B) For the purposes of this paragraph, a student child whose 22nd birthday falls on or after July 1st shall not be considered to have reached 22 years of age until the June 30th following the student child's actual 22nd birthday.

(4) If the annuity of a child under paragraph (2) or paragraph (3) of this subsection terminates because of marriage and such marriage ends, the annuity shall resume on the first day of the month in which it ends, but only if the individual is not otherwise ineligible for the annuity.

(5) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, no annuity of a child or student of a widow or widower under subsection (a-1) of this section shall be paid while an annuity benefit to a widow or widower under subsection (a-1) of this section is being paid.

(f) Any member retiring under § 5-709, § 5-710, or § 5-712, may at the time of such retirement, and any member entitled to receive an annuity under § 5-717 may at the time such annuity commences, elect to receive a reduced annuity in lieu of full annuity, and designate in writing the person to receive an increased annuity after such member's death; provided, that the person so designated be the surviving spouse or child of such member. Whenever such an election is made, the annuity of the designee shall be increased by an amount equal to the amount by which the annuity of such member is reduced. The annuity payable to the member making such election shall be reduced by 10% of the annuity computed as provided in § 5-709, § 5-710, or § 5-712. Such increase in annuity payable to the designee shall be reduced by 5% for each full 5 years the designee is younger than the member, but such total reduction shall not exceed 40%. The increase in annuity payable to the designee pursuant to this subsection shall be paid in addition to the

annuity provided for such designee pursuant to subsection (b) or subsection (c) of this section and shall be subject to the same limitations as to duration and other conditions as the annuity paid pursuant to subsections (b), (c), and (e) of this section. If, at any time after such former member's election, the designee dies, and is survived by such former member, the annuity payable to such former member shall be increased to the amount computed as provided in § 5-709, § 5-710, § 5-712, or § 5-717, as the case may be.

((Sept. 1, 1916, ch. 433, § 12(k); Aug. 21, 1957, 71 Stat. 396, Pub. L. 85- 157, § 3; Oct. 26, 1970, 84 Stat. 1137, Pub. L. 91-509, § 1(8); Aug. 29, 1972, 86 Stat. 642, Pub. L. 92-410, title II, § 201(a)(4); Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(b)(4), (5); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 206(a)(1), 207(a)(2), 209(b); June 22, 1990, D.C. Law 8-145, § 2, 37 DCR 2977; Nov. 19, 1995, 109 Stat. 505, Pub. L. 104-52, § 630(b); Nov. 19, 1997, 111 Stat. 2184, Pub. L. 105-100, § 152(b)(1); Oct. 19, 2000, D.C. Law 13- 172, § 1102, 47 DCR 6308; Oct. 3, 2001, D.C. Law 14-28, § 2102, 48 DCR 6981; Apr. 13, 2005, D.C. Law 15-354, § 13(e), 52 DCR 2638; Mar. 21, 2009, D.C. Law 17-321, § 2(a), 56 DCR 222; Oct. 15, 2010, 124 Stat. 3033, Pub. L. 111-282, § 4(b)(5); Sept. 26, 2012, D.C. Law 19-171, § 40, 59 DCR 6190.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-622.

1973 Ed., § 4-531.

##### *Effect of Amendments*

D.C. Law 13-172 added subsec. (a-1), relating to additional annuities for certain individuals, and added par. (e)(5), relating to annuity payments to children with a surviving parent.

D.C. Law 14-28 rewrote subsec. (c)(1)(B) and (1)(C), rewrote the second sentence of subsec. (d) which had read: "Each child who, on said effective date, was receiving relief or annuity computed in accordance with the provisions of this section, shall be entitled to benefits computed in accordance with the provisions of subsection (c) of this section.", and rewrote subsec. (e)(5). Prior to amendment, subsecs. (c)(1)(B), (1)(C), and (e)(5) read as follows:

"(c) Each surviving child or student child of any member who dies before retirement, of any former member who dies after retirement, or of any member entitled to receive an annuity under § 5-717 (regardless of whether such member is receiving such annuity at the time of death), shall be entitled to receive an annuity equal to the smallest of:

"(1) In the case of a member or former member who is survived by a wife or husband:

"(B) \$2,918.00, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5-718; or

"(C) \$8,754.00, divided by the number of eligible children, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5- 718, divided by the number of eligible children; and"

"(e)(5) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, no annuity of a child or student of a widow or widower under subsection (a-1) of this section shall be paid while an annuity benefit to a widow or widower under subsection (a-1) of this section is being paid."

D.C. Law 15-354 added subsec. (a-2).

D.C. Law 17-321, in subsecs. (e)(1) and (2), substituted "the day after the date on which the member or former member dies" for "1st day of the month in which the member or former member dies".

Pub. L. 111-282, in subsec. (b)(2), inserted ", or, for a member who was an officer or member of the United States Secret Service Uniformed Division, or the United States Secret Service Division, 40 percent of the corresponding salary for step 5 of the Officer rank in section 10203 of title 5, United States Code".

D.C. Law 19-171 validated a previously made technical correction in subsecs. (e)(1) and (2).

##### *Emergency Act Amendments*

For temporary (90-day) amendment of section, see § 1102 of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see § 1102 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

For temporary (90 day) amendment of section, see §§ 1902 to 1904 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

##### *Legislative History of Laws*

Law 8-145, the "District of Columbia Retirement Reform Act of 1979 Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-487, which was referred to the Committee on Government

Operations. The Bill was adopted on first and second readings on March 27, 1990, and April 10, 1990, respectively. Signed by the Mayor on April 26, 1990, it was assigned Act No. 8-201 and transmitted to both Houses of Congress for its review.

Law 13-172, the "Fiscal Year 2001 Budget Support Act of 2000," was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 18, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-375 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

For Law 14-28, see notes following § 5-409.01.

For Law 15-354, see notes following § 5-101.04.

Law 17-321, the "Retired Police Annuity Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-743 which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on November 18, 2008, and December 2, 2008, respectively. Signed by the Mayor on December 22, 2008, it was assigned Act No. 17-625 and transmitted to both Houses of Congress for its review. D.C. Law 17-321 became effective on March 21, 2009.

For history of Law 19-171, see notes under § 5-131.03.

#### *References in Text*

The District of Columbia Police and Firemen's Salary Act salary schedule, referred to in subsection (b)(2) of this section, appears in § 5-541.01.

The effective date of the Policemen and Firemen's Retirement and Disability Act Amendments of 1970, referred to in subsection (d) of this section, is prescribed by § 2 of the Act October 26, 1970, Pub. L. 91-509.

#### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### *Miscellaneous Notes*

Law 17-358 amended this section subject to congressional enactment.

Mayor authorized to issue actuarial study: Section 3 of D.C. Law 8-145 provided that to carry out the purposes of this act, the Mayor shall, pursuant to § 1-722(d)(1), appoint an enrolled actuary to perform the required actuarial study. The cost of the actuarial study shall be borne by the District of Columbia Police Officers' and Fire Fighters' Retirement Fund. The actuarial study shall be completed by June 10, 1990.

Accrual of benefits under D.C. Law 8-145: Section 4 of D.C. Law 8-145 provided that the increased benefits provided for in this act shall begin to accrue on April 10, 1990, but shall not be paid until the change in benefits becomes effective pursuant to § 1-722(d)(1).

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

Applicability of § 152(b) of Pub. L. 105-100: Section 152(b)(2) of Pub. L. 105-100, 111 Stat. 2184, the District of Columbia Appropriations Act, 1998, provided that the amendment made by § 152(b)(1) shall apply with respect to any termination of marriage taking effect on or after November 1, 1993, except that benefits shall be payable only with respect to amounts accruing for periods beginning on the first day of the month beginning after the later of such termination of marriage or such date of enactment.

D.C. Law 13-172, § 1103, as amended by D.C. Law 14-28, § 2103, provides: "The change in benefits in section 1102(a) [adding subsec. (a-1)] shall apply beginning December 29, 1993."

D.C. Law 14-28, § 2104, provides: "The change in benefits in section 2102(a) [amending subsecs. (c), (d), and (e)] shall apply beginning October 1, 2001."

Section 3 of D.C. Law 17-321 provides that this act shall apply as of January 1, 2009.

## **§ 5-717. DEFERRED ANNUITIES; REFUND OF DEDUCTIONS; REDEPOSITS AND INTEREST.**

(a) Except as provided in subsection (b) of this section, any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes 5 years of police or fire service and who is thereafter separated from his department, except for retirement under § 5-709, § 5-710, or § 5-712, shall be entitled to an annuity commencing on the 1st day of the month during which such member attains the age of 55 or on the 1st day of the 1st month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2 1/2 of his average pay for each year of service up to 20 years of service and at the rate of 3% of his average pay for each year of service after 20 years of service, or, in the case of a member who first became such a member after the end of the 90-day period beginning on July 1, 1977, after 25 years of service, except that such annuity may not exceed 80% of the average pay of such member.

(b)(1) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes 5 years of police or fire service and who is thereafter separated from his department (other than a member who retires under § 5-709, § 5-710, or § 5-712) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this subchapter. Receipt of such refund by the member shall void all annuity rights under this subchapter.

(2)(A) Any member who, by electing to receive a refund under paragraph (1) of this subsection, loses annuity rights under this subchapter, may reestablish all such rights at any time prior to attaining the age of 55 by redepositing the amount of such refund plus interest computed in accordance with subsection (c) of this section.

(B) If any member who receives a refund under paragraph (1) of this subsection is subsequently reappointed to any department whose members come under this subchapter and elects, at the time of such reappointment, to redeposit the amount refunded to him under paragraph (1) of this subsection plus interest computed in accordance with subsection (c) of this section, then credit shall be allowed under this subchapter for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed 60 monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

(c) The interest which is required by subsection (b)(2)(A) and (B) of this section and by subsection (b)(2) of § 5-706 to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

(1) Interest shall be paid at a rate which (as determined by the District of Columbia Retirement Board) is equal to the average rate of return on investment (adjusted to the nearest one eighth of 1%) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by § 1-712) for the period beginning on the 1st day of the 1st month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump-sum payment or during which he makes the 1st monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one eighth of 1%) shall be used in determining the interest rate to be paid on redeposits under this subchapter;

(2) Interest shall be payable for the period beginning on the 1st day of the 1st month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund;

(3) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(l); as added Nov. 17, 1979, 93 Stat. 909, Pub. L. 96-122, § 207(a)(1)(B); Apr. 13, 2005, D.C. Law 15-354, § 13(f), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 27(f), 53 DCR 6794.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-623.

1973 Ed., § 4-531.1.

##### *Effect of Amendments*

D.C. Law 15-354, in subsec. (c)(1), substituted "District of Columbia Retirement Board" for "Mayor".

D.C. Law 16-191, in subsec. (c)(1), deleted "of the District of Columbia" following "Retirement Board".

##### *Legislative History of Laws*

For Law 15-354, see notes following § 5-101.04.

## **§ 5-718. COST-OF-LIVING ADJUSTMENTS OF ANNUITIES.**

(a) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the 1st day of the 3rd month which begins after the price index shall have equaled the rise of at least 3% for 3 consecutive months over the price index for the base month, each annuity payable under this subchapter which: (1) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division or the United States Secret Service Division; and (2) has a commencing date on or before such effective date shall be increased by 1% plus the per centum rise in the price index. For purposes of this subsection, the term "base month" means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this subsection, except that, until the 1st cost-of-living annuity increase under this subsection, the base month shall be the last month which was the base month for purposes of § 5- 716.

(b) With respect to any annuity payable under this subchapter which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia hired prior to January 1, 1980, or to a survivor of any such member, on January 1 of each year (or within a reasonable time thereafter), and for payments of benefits accrued by police officers and fire fighters after June 30, 1997, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

(c)(1) If, in accordance with subsection (b) of this section, the Mayor determines in a year (beginning with 1999) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to:

(A) In the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under subsection (b) of this section, adjusted to the nearest 1/10 of 1 per centum; or

(B) In the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of 1/12 of the per centum change computed under subsection (b) of this section, multiplied by the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

(2) On January 1, 1998, or within a reasonable time thereafter, the Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998:

(A) Each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1 per centum; and

(B) Each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of 1/6 of such per centum change, multiplied by the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

(c-1) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, hired after December 31, 1979, or to a survivor of any such member, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

(c-2)(1) If, in accordance with subsection (c-1) of this section, the Mayor determines in a year, beginning with 1997, that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to:

(A) In the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under subsection (c-1) of this section, adjusted to the nearest 1/10 of 1%; or

(B) In the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of 1/12 of the per centum change computed under subsection (c-1) of this section, multiplied by the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date

of the increase, adjusted to the nearest 1/10 of 1%.

(2) On January 1, 1996, or within a reasonable time thereafter, the Mayor shall determine the per centum change in the price index published for December 1995 over the price index published for June 1995. If such per centum change indicates a rise in the price index, effective March 1, 1996:

(A) Each annuity having a commencing date on or before September 1, 1995, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1%; and

(B) Each annuity having a commencing date after September 1, 1995, and on or before March 1, 1996, shall be increased by a pro rata increase equal to the product of 1/6 of such per centum change, multiplied by the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1%.

(d) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least \$1.

(e) For purposes of this section, the term "price index" means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics.

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(m); as added Nov. 17, 1979, 93 Stat. 912, Pub. L. 96-122, § 209(a)(1)(B); Sept. 26, 1995, D.C. Law 11-52, § 806, 42 DCR 3684; Apr. 9, 1997, D.C. Law 11-255, § 11, 44 DCR 1271; Aug. 5, 1997, 111 Stat. 718, Pub. L. 105-33, § 11013(a); Sept. 18, 1998, D.C. Law 12-152, § 207(a), 45 DCR 4045; Apr. 12, 2000, D.C. Law 13-91, § 136, 47 DCR 520.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-624.

1973 Ed., § 4-531.2.

##### *Effect of Amendments*

D.C. Law 13-91 validated previously made technical amendments.

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 206(a) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Temporary Act of 1997 (D.C. Law 12-58, March 20, 1998, law notification 45 DCR 2093).

##### *Emergency Act Amendments*

For temporary amendment of section, see § 2 of the Cost of Living Adjustment Extension for Public Safety Personnel Emergency Amendment Act of 1994 (D.C. Act 10-324, August 18, 1994, 41 DCR 6002).

For temporary amendment of section, see § 511 of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 806 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of section, see § 206(a) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Emergency Act of 1997 (D.C. Act 12-155, October 1, 1997, 44 DCR 5896), § 206(a) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Congressional Review Emergency Act of 1997 (D.C. Act 12-240, January 13, 1998, 45 DCR 531), and § 206(a) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan and Fiscal Year 1998 Revised Budget Support Act of 1997 Technical Amendments Emergency Act of 1998 (D.C. Act 12-351, May 20, 1998, 45 DCR 3673).

For temporary amendment of section, see § 2(b) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan and Fiscal Year 1998 Revised Budget Support Act of 1997 Technical Amendments Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-432, August 6, 1998, 45 DCR 5920).

##### *Legislative History of Laws*

For legislative history of D.C. Law 10-135, see Historical and Statutory Notes following § 5-745.

Law 11-52, the "Omnibus Budget Support Act of 1995," was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24,



1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Law 12-152, the "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998," was introduced in Council and assigned Bill No. 12-386, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 7, 1998 and May 5, 1998, respectively. Signed by the Mayor on May 22, 1998, it was assigned Act No. 12- 369 and transmitted to both Houses of Congress for its review. D.C. Law 12-152 became effective on September 18, 1998.

Law 13-91, the "Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

#### *Editor's Notes*

Changes were made to this section to conform to Public Law 95-179, 91 Stat, 1371, approved November 15, 1977, striking "Executive Protective Service" and inserting "United States Secret Service Uniform Division" in its place wherever it appeared in the United States Code.

#### *Miscellaneous Notes*

Lump-sum payments to certain retired employees: Section 101(d) of Pub. L. 99- 591, the D.C. Appropriations Act, 1987, provided that, notwithstanding any other provision of law, in the case of each employee who retired from the Fire Department of the District of Columbia between November 24, 1984, and April 13, 1985 (both dates inclusive), and who on October 30, 1986 are receiving annuities based on service in the Fire Department, the District of Columbia Retirement Board shall cause to be paid not later than October 15, 1986, to each such employee a lump-sum payment equal to 3 percent of his or her annuity.

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

Application of Law 12-152: Section 209 of D.C. Law 12-152 provided that the act shall apply as of October 1, 1997.

Full Funding of Pension Liability Retirement Amendment Reform Amendment Act of 1992: Section 302 of D.C. Law 10-135 amends (b) and (c) to read as follows:

"(b) With respect to any annuity payable under §§ 4-607 to 4-630 which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

"(c)(1) If (in accordance with subsection (b) of this section) the Mayor determines in a year (beginning with 1997) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to --

"(A) In the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under subsection (b) of this section, adjusted to the nearest 1/10 of 1 per centum; or.

"(B) In the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of --

"(i) One-twelfth of the per centum change computed under subsection (b) of this section, multiplied by.

"(ii) The number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

"(2) On January 1, 1996 (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index published for December 1995 over the price index published for June 1995. If such per centum change indicates a rise in the price index, effective March 1, 1996 --

"(A) Each annuity having a commencing date on or before September 1, 1995, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1 per centum; and.

"(B) Each annuity having a commencing date after September 1, 1995, and on or before March 1, 1996, shall be increased by a pro rata increase equal to the product or --

"(i) One-sixth of such per centum change, multiplied by.

"(ii) The number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum."

## **§ 5-719. APPLICATION OF § 5-718.**

Subsections (b) and (c) of § 5-718 shall apply:

(1) To any increase after the effective date of § 5-718 in annuities payable under § 5-716, except that with respect to the 1st date after the effective date of § 5-718 on which the Mayor is to determine a per centum change for the purpose of such an increase, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such 1st date over the price index published for the last month which was the base month for purposes of § 5-716(7) before the repeal of such paragraph (7) by Pub. L. 96-122, § 209(b); and

(2) To any increase in each annuity payable under this subchapter having a commencing date after the effective date of § 5-718, except that in the case of members hired on or after the 1st day of the 1st pay period that begins after October 29, 1996, such increase shall not exceed 3% per annum, nor exceed one increase per annum. Except that, with respect to a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia hired after December 31, 1979, § 5-718(c-1) and (c-2) shall apply to all annuities payable under this subchapter.

(Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 209(a)(2); Sept. 26, 1995, D.C. Law 11-52, § 806a, 42 DCR 3684; Apr. 9, 1997, D.C. Law 11-218, § 3, 43 DCR 6172.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-625.

1973 Ed., § 4-531.3.

#### *Emergency Act Amendments*

For temporary amendment of section, see § 512 of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 806a of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of section, see § 3 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 3 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

#### *Legislative History of Laws*

For legislative history of D.C. Law 10-135, see Historical and Statutory Notes following § 5-745.

For legislative history of D.C. Law 11-52, see Historical and Statutory Notes following § 5-718.

For legislative history of D.C. Law 11-218, see Historical and Statutory Notes following § 5-701.

#### *References in Text*

The "effective date of § 4-624," referred to in paragraph (2), is prescribed by § 209(d) of the Act of November 17, 1979, 93 Stat. 914, Pub. L. 96-122.

The "Policemen and Firemen's Retirement and Disability Act" referred to in paragraph (2), is the Act of September 1, 1916, 39 Stat. 718, ch. 433, § 12 which is codified as §§ 5-133.10, 5-119.10, 5-119.11, 5-701, 5-703, 5-704, 5-706, 5-707, 5-709, 5-710, 5-712--5-714, 5-716, 5-720, 5-721, 5-723, and 5-724.

#### *Miscellaneous Notes*

Full Funding of Pension Liability Retirement Reform Amendment Act of 1994: Section 303(a) of D.C. Law 10-135 amended (2) by adding a second sentence that reads: "Except that, with respect to a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, § 5-718(b) and (c) shall apply to all annuities payable under the Policemen and Firemen's Retirement and Disability Act."

## **§ 5-720. FUNERAL EXPENSES.**

The Mayor is authorized to pay a sum not exceeding \$300 in any 1 case to defray the funeral expenses of any deceased member dying while in the service thereof.

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(l); Aug. 21, 1957, 71 Stat. 397, Pub. L. 85-157, § 3; redesignated § 12(n) Nov. 17, 1979, 93 Stat. 912, Pub. L. 96-122, § 209(a)(1)(A).)

### *HISTORICAL AND STATUTORY NOTES*

1981 Ed., § 4-626.

1973 Ed., § 4-532.

*Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

*Miscellaneous Notes*

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

**§ 5-721. DUTIES OF MAYOR; PROCEEDINGS RELATED THERETO;  
DISABILITY RETIREE TO REPORT EMPLOYMENT AND UNDERGO  
MEDICAL EXAMINATION; OVERPAYMENTS.**

(a) The Mayor shall consider all cases for the retirement of members and all applications for annuities under this subchapter subject to review and final determination by the District of Columbia Retirement Board. In each case of retirement of a member the Mayor shall certify in writing the physical condition of the member for whom retirement is sought. The Mayor shall give written notice to any member under consideration by him for retirement to appear before him and to give evidence under oath. The proceedings before the Mayor involving the retirement of any member, or any application for an annuity under this subchapter, shall be reduced to writing and shall show the date of appointment of such member, his age, his record in the service, and any other information which may be pertinent to the matter of such retirement or annuity. The Mayor is authorized to administer oaths and affirmations, may require by subpoena or otherwise the attendance and testimony of witnesses and the production of documents at any designated place. In the event of contumacy or refusal to obey any such subpoena or requirement under this section, the Mayor may apply to the Superior Court of the District of Columbia for an order requiring obedience thereto. Thereupon the Court, with or without notice and hearing, as it in its discretion may decide, shall make such order as is proper and may punish as a contempt any failure to comply with such order in accordance with the provisions of § 11-944.

(b)(1) If a member is retired under § 5-709 or § 5-710 and is employed on or after the effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972, such member shall, in accordance with such regulations as the Mayor shall prescribe, notify the Mayor of the employment; and the Mayor shall, as soon as practicable after the receipt of such notice, require each such member to undergo a medical examination (satisfactory to the Mayor) of the disability upon which the member's retirement under such section is based. The Mayor shall not require employment questionnaires under § 5-714(c)(5) or the medical examination of such member under paragraph (2) of this subsection after such member reaches the age of 50.

(2) The Mayor shall, by regulation, require any annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who retired before, on, or after November 17, 1979, under § 5-709 or § 5-710 to undergo, during each 12-month period following the effective date of this paragraph, at least 1 medical examination of the disability upon which the annuitant's retirement under § 5-709 or § 5-710 is based. No such annuitant shall be required under such regulations to undergo a medical examination during any such 12-month period during which the annuitant was required to undergo a medical examination under this section in connection with such annuitant's employment. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.

(3) Such regulations shall further provide for notification by the Board of Police and Fire Surgeons to each such annuitant as to the time and place for such examination and the consequences of failure to appear and submit to such examination.

(4) In any case in which the requirement to undergo a medical examination under this subchapter would impose on an annuitant an undue hardship because of the physical or mental condition of such annuitant, the Mayor, by regulation, shall provide other means sufficient to determine the continuance of the disability on which such annuitant's retirement under § 5-709 or § 5-710 is based.

(5) Such regulations shall further provide that, in any case involving any such member so retired who refuses or otherwise fails to undergo any medical exam required by this subchapter, payment of the annuity to such member shall cease and such member shall not be eligible to receive such annuity or any part thereof for any period commencing on the day next following the day on which such member was required to undergo such examination, and ending on the date on which such member undergoes such examination. Nothing in this subsection shall be construed as affecting any rights to a survivor's annuity under § 5-716 based upon the service of such member.

(c) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than \$100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this subchapter.

(Sept. 16, 1916, 39 Stat. 718, ch. 433, § 12(m); Aug. 21, 1957, 71 Stat. 397, Pub. L. 85-157, § 3; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Aug. 29, 1972, 86 Stat. 642, Pub. L. 92-410, title II, § 202(a); Sept. 3, 1974, 88 Stat. 1041, Pub. L. 93-407, title I, § 123; redesignated § 12(o) Nov. 17, 1979, 93 Stat. 912, Pub. L. 96-122, § 205(b), 210; Apr. 13, 2005, D.C. Law 15-354, § 13(g), 52 DCR 2638.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-627.

1973 Ed., § 4-533.

##### *Effect of Amendments*

D.C. Law 15-354, in subsec. (a), inserted "subject to review and final determination by the District of Columbia Retirement Board" in the first sentence.

##### *Legislative History of Laws*

For Law 15-354, see notes following § 5-101.04.

##### *References in Text*

Section 11-756 [1981 Ed.], formerly appearing at the end of the last sentence of subsection (a) of this section, was repealed by the Act of December 23, 1963, 77 Stat. 620, Pub. L. 88-241, § 21(a), and was replaced by § 11-982 [1981 Ed.]. Title 11 was entirely amended by § 111 of Pub. L. 91-358, and the provisions of former § 11-982 [1981 Ed.] are now covered in § 11-944.

"The effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972," referred to in the first sentence of subsection (b)(1) of this section, is prescribed by § 118 of the Act of August 29, 1972, Pub. L. 92-410.

The "effective date of this paragraph," referred to in subsection (b)(2), is prescribed by § 205(c) of the Act of November 17, 1979, 93 Stat. 866, Pub. L. 96-122.

##### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

##### *Miscellaneous Notes*

Order establishing policies and procedures for administering § 5-721(b): See Commissioner's Order No. 74-31, dated February 12, 1974, as amended by Mayor's Order No. 76-213, dated October 20, 1976.

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

## **§ 5-722. POLICE AND FIREMEN'S RETIREMENT AND RELIEF BOARD.**

(a)(1) In order to carry out his responsibilities under this subchapter with respect to retirement and disability determinations, and related functions, the Mayor of the District of Columbia shall establish a Police and Firemen's Retirement and Relief Board (hereinafter in this section referred to as the "Board"). The Board shall be composed of:

(A) Members and alternatives appointed from among persons who are employees of the District of Columbia, 1 member and 1 or more alternates from each of the following: the District of Columbia Office of Personnel, Corporation Counsel, Department of Human Services, the Metropolitan Police Force, and the Fire and Emergency Medical Services Department; and

(B) Two members, one of whom shall be a physician, appointed from among persons who are not officers or employees of the District of Columbia.

(2) The member, and 1 or more alternates, appointed to the Board from among employees of the Department of Human Services shall be medical officers. All appointments shall be made by the Mayor.

(b) The members appointed under subsection (a)(1)(B) of this section shall be appointed for 2 years, and shall be entitled to receive compensation for each day they are actually engaged in carrying out duties vested in the Board in the same manner as persons employed intermittently under § 3109 of Title 5 of the United States Code. Such members shall be appointed within 90 days after September 3, 1974.

(c) The Mayor shall establish rules for the Board to assure that the Board functions fairly and equitably. The Mayor shall provide the staff necessary for the Board.

(d) In addition to the members and alternates of the Board designated by subsection (a) of this section, in all cases of retirement, disability, or other relief involving a member of the United States Secret Service Uniformed Division or a member of the United States Secret Service Division, who contributes to the Policemen and Firemen's Relief Fund of the District of Columbia, a member and alternate of the United States Secret Service Uniformed Division or a member and alternate of the United States Secret Service Division, as designated by the Director, United States Secret Service Division, as appropriate shall sit as a member of the Police and Firemen's Retirement and Relief Board.

(Sept. 3, 1974, 88 Stat. 1041, Pub. L. 93-407, title I, § 122; Jan. 3, 1975, 88 Stat. 2179, Pub. L. 93-635, § 19; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Sept. 22, 1994, D.C. Law 10-174, § 2, 41 DCR 5171.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-628.

1973 Ed., § 4-533a.

##### *Legislative History of Laws*

Law 10-174, the "Policemen and Firemen's Retirement Relief Board Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-578, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-294 and transmitted to both Houses of Congress for its review. D.C. Law 10-174 became effective on September 22, 1994.

##### *References in Text*

Office of Personnel was substituted for Personnel Office in subsection (a)(1)(A) of this section pursuant to Mayor's Order No. 79-84, dated May 10, 1979.

Department of Human Services was substituted for Department of Human Resources in subsection (a)(1)(A) and (a)(2) pursuant to Reorganization Plan No. 2 of 1979, dated February 21, 1980.

##### *Change in Government*

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

##### *Delegation of Authority*

Delegation of Rulemaking Authority under D.C. Official Code § 5-722(c) Regarding the Police and Firemen's Retirement and Relief Board, see Mayor's Order 2010-44, March 19, 2010 (57 DCR 2349).

##### *Miscellaneous Notes*

Order establishing Board: See Organization Order No. 48, dated September 25, 1974.

Coverage Under Federal Employees' Retirement Act: See Historical and Statutory Notes following § 5-742.

## **§ 5-723. ACCRUEMENT AND PAYMENT OF ANNUITIES; PERSONS WHO MAY ACCEPT PAYMENT; WAIVER; REDUCTION.**

(a) Each annuity is stated as an annual amount, one twelfth of which, fixed at the nearest dollar, accrues monthly (except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the 1st day of the next month and is payable for such month, to include the month of death of the annuitant, in an amount prorated in a manner to be determined by the District of Columbia Retirement Board) and is payable on the 1st business day of the month after it accrues.

(b) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the state of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the state of residence of the claimant, payment may be made to any person who, in the judgment of the District of Columbia Retirement Board, is responsible for the care of the claimant, and the payment bars recovery by any other person.

(c) Any person entitled to an annuity under this subchapter may decline to accept all or any part of such annuity by a waiver signed and filed with the District of Columbia Retirement Board. Such waiver may be revoked in writing at any time, but no payment of the annuity waived shall be made covering the period during which such waiver was in effect.

(d) In order to facilitate the settlement of the accounts of each person who, at the time of his death, was receiving or was entitled to receive an annuity under this subchapter, the District of Columbia Retirement Board shall pay all unpaid annuity due such person at the time of death to the person or persons surviving at the date of death, in the following order of precedence, and such payment shall be a bar to recovery by any other person of amounts so paid:

(1) To the widow or widower of such person;

(2) If there be no surviving spouse, to the child or children of such person, and descendants of deceased children, by representation;

(3) If there be none of the above, to the parents of such person or the survivor of them; or

(4) If there be none of the above, to the duly appointed legal representative of the estate of the deceased person, or if there be none, to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased person.

(e) Notwithstanding any other provision of law, the salary of any annuitant who first becomes entitled to an annuity under this subchapter, after November 17, 1979, and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such annuitant's annuity under this subchapter and compensation for such employment is equal to the salary otherwise payable for the position held by such annuitant. The provisions of this subsection shall not apply to an annuitant employed by the District of Columbia government under the Retired Police Officer Redeployment Amendment Act of 1992 or the Detective Adviser Act of 2004. The provisions of this subsection shall not apply to an annuitant employed by the D.C. Public Schools under the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994.

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(n); Aug. 21, 1957, 71 Stat. 398, Pub. L. 85-157, § 3; redesignated 12(p) Nov. 17, 1979, 93 Stat. 912, Pub. L. 96-122, §§ 211, 212, 214; Mar. 15, 1990, D.C. Law 8-95, § 3, 37 DCR 786; Sept. 29, 1992, D.C. Law 9-163, § 3, 39 DCR 5705; July 23, 1994, D.C. Law 10-136, § 4, 41 DCR 3006; Sept. 30, 2004, D.C. Law 15-194, § 1121, 51 DCR 9406; Apr. 13, 2005, D.C. Law 15-354, § 13(h), 52 DCR 2638; Mar. 21, 2009, D.C. Law 17-321, § 2(b), 56 DCR 222.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-629.

1973 Ed., § 4-534.

#### *Effect of Amendments*

D.C. Law 15-354 substituted "District of Columbia Retirement Board" for "Mayor".

D.C. Law 17-321, in subsec. (a), substituted "such month, to include the month of death of the annuitant," for "such month".

#### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 3 of Retired Police Officer Redeployment Temporary Amendment Act of 1989 (D.C. Law 8-3, May 23, 1989, law notification 36 DCR 4153).

For temporary (225 day) amendment of section, see § 3 of Retired Police Officer Redeployment Temporary Amendment Act of 1992 (D.C. Law 9-132, July 22, 1992, law notification 39 DCR 5813).

For temporary (225 day) amendment of section, see § 3 of Retired Police Officer Public Schools Security Personnel Deployment Temporary Amendment Act of 1993 (D.C. Law 10-5, July 31, 1993, law notification 40 DCR 5629).

#### *Emergency Act Amendments*

For temporary amendment of section, see § 3 of the Retired Police Officer Redeployment Emergency Amendment Act of 1992 (D.C. Act 9-201, April 24, 1992, 39 DCR 3215).

For temporary amendment of section, see § 3 of the Retired Police Officer Public Schools Security Personnel Deployment Emergency Amendment Act of 1993 (D.C. Act 10-21, April 29, 1993, 40 DCR 2864).

For temporary (90 day) addition of § 5-723.01, see §§ 3622(b) and 3623 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

#### *Legislative History of Laws*

Law 8-95, the "Retired Police Officer Redeployment Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-308, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 5, 1989, and December 19, 1989, respectively. Signed by the Mayor on January 11, 1990, it was assigned Act No. 8-146 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 9-163, see Historical and Statutory Notes following § 5-761.

For legislative history of D.C. Law 10-136, see Historical and Statutory Notes following § 5-762.

For Law 15-194, see notes following § 5-105.01.

For Law 15-354, see notes following § 5-101.04.

For Law 17-321, see notes following § 7-716.

#### *References in Text*

The "Retired Police Officer Redeployment Amendment Act of 1992," referred to in (e), is D.C. Law 9-163, effective September 29, 1992.

The "Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994" referred to in (e), is D.C. Law 10-136, effective July 23, 1994.

#### *Editor's Notes*

In subsection (e), "November 17, 1979" is substituted for "July 1, 1977" to correct an error in regard to the date of enactment of the District of Columbia Retirement Reform Act (D.C. Code, § 1-701 et seq.) as stated in the organic act; the date of enactment of the District of Columbia Retirement Reform Act is November 17, 1979.

#### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### *Miscellaneous Notes*

Law 17-358 amended this section subject to congressional enactment.

Expiration of Law 8-95: Section 4(b) of D.C. Law 8-95 provided that the act shall expire on April 1, 1992.

Expiration of Law 9-163: Section 6(b) of D.C. Law 9-163 provided that, except for section 5, the act shall expire on October 1, 1997.

Repeal of the Expiration of Law 9-163: Section 2(b) of D.C. Law 12-253 repealed section 6(b) of D.C. Law 9-163.

Emergency Act 12-148, Emergency Act 12-220, Temporary Law 12-45, Emergency Act 12-440, Emergency Act 12-450, Emergency Act 12-507, Emergency Act 12-596, Emergency Act 13-26 and Temporary Law 12-204 all repealed section 6(b) of D.C. Law 9-163 or otherwise kept in effect the repeal of section 6(b) of D.C. Law 9-163.

Mayor authorized to issue regulations: Section 4 of D.C. Law 9-163 provided that the Mayor shall issue regulations necessary to carry out the provisions of this act.

Metal detectors authorized: Section 4 of D.C. 10-5 provided that to the extent possible, the Board of

Education shall install metal detectors in junior and senior high schools in accordance with the Board's commitment in the fiscal year 1992 budget process.

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

Application of Law 10-136: See Historical and Statutory Notes following § 5- 762.

Section 3 of D.C. Law 17-321 provides that this act shall apply as of January 1, 2009.

## **§ 5-723.01. MAXIMUM AMOUNT OF BENEFITS AND CONTRIBUTIONS.**

(a) Benefits and contributions under the provisions of this subchapter shall not be computed with reference to any compensation that exceeds that maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code of 1986, as adjusted for increases in the cost-of-living. This provision shall take effect as of October 1, 2002, and shall apply only with respect to an individual who first becomes covered by this subchapter after that date.

(b) Benefits shall not be payable under this subchapter to the extent that they exceed the limitations imposed by section 415 of the Internal Revenue Code of 1986, as adjusted for increases in the cost-of-living.

(Sept. 16, 1916, ch. 433, § 12(n-1), as added Oct. 1, 2002, D.C. Law 14-190, § 3722(a), 49 DCR 6968; Mar. 13, 2004, D.C. Law 15-105, § 40(b), 51 DCR 881.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Effect of Amendments*

D.C. Law 15-105, in subsecs. (a) and (b), validated previously made technical corrections.

#### *Legislative History of Laws*

For Law 14-190, see notes following § 5-133.19.

For Law 15-105, see notes following § 5-409.01.

#### *References in Text*

Section 401(a)(17) of the Internal Revenue Code of 1986, referred to in par. (1), is classified as 26 U.S.C.A. § 401(a)(17).

Section 415 of the Internal Revenue Code of 1986, referred to in par. (2), is classified as 26 U.S.C.A. § 415.

#### *Miscellaneous Notes*

Section 3723 of D.C. Law 14-190 provides: "This subtitle [subtitle B of title XXXVII, §§ 3721 to 3724, of D.C. Law 14-190] shall apply as of January 1, 2002."

## **§ 5-723.02. LONGEVITY COMPENSATION.**

The additional compensation provided for in § 5-544.01, shall be included for purposes of retirement annuity calculations pursuant to this subchapter for those officers and members who complete 25 years of active service prior to retirement.

(Sept. 1, 1916, 39 Stat. 718, ch 433, § 12(n-2), as added Apr. 13, 2005, D.C. Law 15-354, § 13(i), 52 DCR 2638.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 15-354, see notes following § 5-101.04.

## **§ 5-724. DELEGATION OF FUNCTIONS BY MAYOR; PROMULGATION OF RULES AND REGULATIONS BY MAYOR.**

(a) The Mayor is hereby vested with full power and authority to delegate from time to time to his designated agent or agents any of the functions vested in him by this subchapter.

(b) The Mayor is authorized to promulgate such rules and regulations as the Mayor may deem necessary to carry out the Mayor's responsibilities under this subchapter.

(Sept. 1, 1916, ch. 433, § 12(o), (p); Aug. 21, 1957, 71 Stat. 398, Pub. L. 85-157, § 3 redesignated § 12(q), (r) Nov. 17, 1979, 93 Stat. 912, Pub. L. 96-122, § 209(a)(1)(A); Apr. 13, 2005, D.C. Law 15-354, § 13(j), 52



*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 4-630.

1973 Ed., § 4-535.

*Effect of Amendments*

D.C. Law 15-354 rewrote subsec. (b) which had read:

"(b) The Mayor is authorized to promulgate such rules and regulations as he may deem necessary to carry out the purposes of this subchapter."

*Legislative History of Laws*

For Law 15-354, see notes following § 5-101.04.

*Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

*Delegation of Authority*

Delegation of Mayor's Rulemaking Authority Pursuant to the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004 and the Policemen and Firemen's Retirement and Disability Act to the Chief, Metropolitan Police Department, see Mayor's Order 2005-100, June 14, 2005, (52 DCR 8166).

*Miscellaneous Notes*

Policemen and Firemen's Retirement and Disability Act: Section 3(r) of Pub. L. 85-157 provides that this section may be cited as part of the Policemen and Firemen's Retirement and Disability Act.

## **SUBCHAPTER II. APPLICATION OF 1916 PROVISIONS.**

### **§ 5-731. EXISTING RELIEF AND RIGHTS PRESERVED.**

Nothing in subchapter I of this chapter shall be deemed to reduce the relief or retirement compensation to which any person is entitled on the effective date of such sections and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such sections had not been enacted.

(Aug. 21, 1957, 71 Stat. 399, Pub. L. 85-157, § 4.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 4-631.

1973 Ed., § 4-536.

*References in Text*

The "effective date" is prescribed by § 8 of the Act of August 21, 1957, 71 Stat. 399, Pub. L. 85-157.

### **§ 5-732. APPROPRIATIONS AUTHORIZED.**

There are hereby authorized to be appropriated from revenues of the United States such sums as are necessary to reimburse the District of Columbia, on a monthly basis, for benefit payments made from revenues of the District of Columbia to or for federal employees and to or for the surviving children and

spouse of such federal employees under the provisions of subchapter I of this chapter, to the extent that such benefit payments exceed the deductions from the salaries of federal employees for credit to the revenues of the District of Columbia, and for the administrative costs associated with making such benefit payments. For the purpose of this section:

(1) The term "benefit payments" includes relief, retirement compensation, pensions, and annuities and medical, surgical, hospital, and funeral expenses.

(2) The term "federal employees" means and includes such members of the United States Park Police force as are paid from funds of the United States, members of the United States Secret Service Uniformed Division and such members of the United States Secret Service Division as have or may hereafter become entitled to benefits under subchapter I of this chapter.

(Aug. 21, 1957, 71 Stat. 399, Pub. L. 85-157, § 6; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Oct. 18, 2004, 118 Stat. 1347, Pub. L. 108-335, § 334(a).)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-632.

1973 Ed., § 4-537.

##### *Effect of Amendments*

Pub. L. 108-335, in the introductory paragraph, deleted the period at the end of the first sentence and inserted ", and for the administrative costs associated with making such benefit payments."

##### *Miscellaneous Notes*

Section 334(b) of Pub. L. 108-335, the District of Columbia Appropriations Act, 2005, provides: "The amendment made by subsection (a) shall apply with respect to fiscal year 2005 and each succeeding fiscal year."

## **§ 5-733. ELIGIBILITY FOR BENEFITS UNDER FEDERAL LAW.**

Notwithstanding any other provision of law, no person entitled to receive any benefit under subchapter I of this chapter on account of death incurred, an injury received, or disease contracted, or an injury or disease aggravated, in the performance of duty shall be entitled, because of the same death, injury, disease, or aggravation, to benefits under subchapter I of Chapter 81 of Title 5, United States Code.

(Aug. 21, 1957, 71 Stat. 400, Pub. L. 85-157, § 7.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-633.

1973 Ed., § 4-538.

##### *References in Text*

"Subchapter I of Chapter 81 of Title 5, United States Code" is codified at 5 U.S.C. § 8101 et seq.

## **SUBCHAPTER III. MISCELLANEOUS PROVISIONS.**

## **§ 5-741. PAYMENT AND DEPOSIT OF MONEYS.**

Commencing with July 1, 1935, and thereafter, all moneys on June 14, 1935, required to be deposited to the credit of the Policemen and Firemen's Relief Fund, District of Columbia, under § 5-706(a), shall be paid to the Collector of Taxes of the District of Columbia and deposited in the Treasury to the credit of the revenues of said District, except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712.

(June 14, 1935, 49 Stat. 358, ch. 241, § 1; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 122(b)(2).)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-601.

## **§ 5-742. CREDIT FOR ACTIVE SERVICE IN MILITARY OR NAVAL FORCES.**

In determining eligibility for the amount of benefits from the Policemen and Firemen's Relief Fund, District of Columbia, or the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by § 1-712), each member of the Metropolitan Police Department of the District of Columbia, the United States Park Police force, the United States Secret Service Uniformed Division, the Fire Department of the District of Columbia, and each member of the United States Secret Service who has actively performed duties other than clerical for 10 years or more directly related to the protection of the President, who shall have left active employment in any such Department, force, or Service to perform active service in the military or naval forces of the United States, shall be credited with all periods of honorable active military or naval service performed on or after September 16, 1940, and prior to the termination of the war as declared by Presidential proclamation or concurrent resolution of the Congress.

(July 21, 1947, 61 Stat. 398, ch. 272; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 122(b)(3).)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-602.

1973 Ed., § 4-504a.

#### *Miscellaneous Notes*

Coverage Under Federal Employees' Retirement Act: Officers and members of the United States Park Police, United States Secret Service Uniformed Division, and United States Secret Service Division hired on or after January 1, 1984, are covered by the Federal Employees' Retirement System Act, not the District of Columbia Retirement System, unless exempt from coverage of such Act. See 5 U.S.C. §§ 8401(17)(B) and 8402.

## **§ 5-743. BOARD TO DETERMINE AMOUNT OF PENSION RELIEF.**

The District of Columbia Retirement Board is hereby empowered to determine and fix the amount of the pension relief allowance heretofore and hereafter granted to any person under and in accordance with the provisions of subchapter I of this chapter.

(July 1, 1930, 46 Stat. 841, ch. 783, § 6; Apr. 13, 2005, D.C. Law 15-354, § 14, 52 DCR 2638.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-603.

1973 Ed., § 4-505.

#### *Effect of Amendments*

D.C. Law 15-354 substituted "District of Columbia Retirement Board" for "Mayor".

#### *Legislative History of Laws*

For Law 15-354, see notes following § 5-101.04.

#### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## **§ 5-744. EQUALIZATION OF PENSIONS OF WIDOWS AND ORPHANS**

## **GRANTED PRIOR TO OCTOBER 1, 1949.**

All widows and children of deceased members of the Police Department or of the Fire Department of the District of Columbia receiving relief under the provisions of subchapter I of this chapter shall be entitled to receive relief to the same extent and in the same manner as is provided by § 5-716; provided, that no relief shall be increased or allowed under the authority of this section for any period prior to October 1, 1949; provided further, that any child or children who had attained the age of 16 years and whose benefits were terminated shall be entitled to receive relief as provided by § 5-716 until the attainment of 18 years of age.

(Aug. 4, 1949, 63 Stat. 566, ch. 394, § 3.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-604.

1973 Ed., § 4-507a.

#### *Miscellaneous Notes*

Section 3(b) of Pub. L. 111-282 provides:

"(b) IMPACT ON BENEFITS UNDER THE DISTRICT OF COLUMBIA POLICE AND FIREFIGHTERS' RETIREMENT AND DISABILITY SYSTEM. --

"(1) SALARY INCREASES FOR PURPOSES OF CERTAIN PENSIONS AND ALLOWANCES.--For purposes of section 3 of the Act entitled "An Act to provide increased pensions for widows and children of deceased members of the Police Department and the Fire Department of the District of Columbia", approved August 4, 1949 (sec. 5-744, D.C. Official Code) and section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (sec. 5-745, D.C. Official Code)--

" (A) the conversion of positions and members of the United States Secret Service Uniformed Division to appropriate ranks in the salary schedule set forth in this Act and the amendments made by this Act shall not be treated as an increase in the salary of individuals who are members of the United States Secret Service Uniformed Division on the date of the enactment of this Act; and

"(B) any adjustment of rates of basic pay of those positions and individuals in accordance with this Act and the amendments made by this Act which is made after such conversion shall be treated as an increase in the salary of individuals who are members of the United States Secret Service Uniformed Division on the date of the enactment of this Act."

"(2) TREATMENT OF RETIREMENT BENEFITS AND PENSIONS OF CURRENT AND FORMER MEMBERS.--Except as otherwise provided in this Act, nothing in this Act shall affect retirement benefits and pensions of current members and former members who have retired under the District of Columbia Police and Firefighters' Retirement and Disability System."

Section 4(a) of Pub. L. 111-282 provides:

"(a) IN GENERAL.--To the extent that any provision of any law codified in the District of Columbia Official Code that authorizes an entitlement to pay or hours of work for current members of the United States Secret Service Uniformed Division is not expressly revoked by this Act, such provision shall not apply to such members after the effective date of this Act."

## **§ 5-745. PENSION RELIEF ALLOWANCE OR RETIREMENT COMPENSATION INCREASE.**

(a) Notwithstanding § 5-743, each individual heretofore or hereafter retired from active service and entitled to receive a pension relief allowance or retirement compensation under the provisions of subchapter I of this chapter shall be entitled to receive, without making application therefor, with respect to each increase in salary granted by this act, or hereafter granted by law to which such individual would be entitled if he were in active service, an increase in his pension relief allowance or retirement compensation. Except as otherwise provided in this section, such increase shall be in an amount which bears the same ratio to such increase in salary as the amount of each such individual's pension relief allowance or retirement compensation in effect on the day next preceding such salary increase bore to the salary to which he would have been entitled had he been in active service on the day next preceding such salary increase.

(b) The increase prescribed by subsection (a) of this section in the pension relief allowance or retirement compensation received by an individual retired from active service before the effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972 under subchapter I of this chapter as a result of the increase in salary provided by the District of Columbia Police and Firemen's Salary Act Amendments of 1972 shall not be less than 17% of such allowance or compensation.

(c) Each individual retired from active service and entitled to receive a pension relief allowance or

retirement compensation under subchapter I of this chapter shall be entitled to receive, without making application therefor, with respect to each increase in salary, granted by any law which takes effect after the effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972, to which he would be entitled if he were in active service, an increase in his pension relief allowance or retirement compensation computed as follows: His pension relief allowance or retirement compensation shall be increased by an amount equal to the product of such allowance or compensation and the per centum increase made by such law in the scheduled rate of compensation to which he would be entitled if he were in active service on the effective date of such increase in salary.

(d) Each increase in pension relief allowance or retirement compensation made under this section because of an increase in salary shall take effect as of the 1st day of the 1st month following the effective date of such increase in salary.

(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.

(June 20, 1953, 67 Stat. 75, ch. 146, title III, § 301; Aug. 29, 1972, 86 Stat. 640, Pub. L. 92-410, title I, § 114; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 209(c).)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 4-605.

1973 Ed., § 4-518.

##### *Emergency Act Amendments*

For temporary amendment of section, see § 513 of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217).

##### *Legislative History of Laws*

Law 10-135, the "Full Funding of Pension Liability Retirement Reform Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-515, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 1, 1994, and April 12, 1994, respectively. Signed by the Mayor on May 4, 1994, it was assigned Act No. 10-239 and transmitted to both Houses of Congress for its review.

##### *References in Text*

"This act," referred to in the first sentence of subsection (a) of this section, means the Act of June 20, 1953, 67 Stat. 75, ch. 146.

The effective date of the Police and Firemen's Salary Act Amendments of 1972, referred to throughout this section, is prescribed by § 118 of the Act of August 29, 1972, 86 Stat. 634, Pub. L. 92-410.

##### *Miscellaneous Notes*

Section 9 of D.C. Law 4-78 provided that for the purposes of implementing the automatic equalization provisions of subsection (c) of this section, the "early reporting time stipends" paid to active members of the Metropolitan Police Department pursuant to the negotiated agreement between the International Brotherhood of Police Officers and the District of Columbia government, signed by the Mayor on July 15, 1981, and submitted to the Council on July 29, 1981, shall be considered to be a salary increase within the scope of the equalization clause, and shall be included for the purpose of computing increases in retirement benefits pursuant to the equalization clause for those retired members who would have received such early reporting time stipend payments had they been on active service when such payments are made.

Full Funding of Pension Liability Reform Amendment Act of 1994: Section 303(b) of D.C. Law 10-135 amends § 5-745(e) by striking the phrase "who retire after the effective date of this act."

Section 401 of D.C. Law 10-135 provided that notwithstanding any other law, title 1 §§ 101(b)(1) and (2), and titles II and III, shall apply to any action or transaction taken or undertaken with respect to the Police Officers and Fire Fighters' Retirement Fund, the Teachers' Retirement Fund and the Judges' Retirement Fund on and after October 1, 1995.

Section 501 of D.C. Law 10-135 provides that the act shall take effect on the later of: (1) completion of the 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in § 1-206.02(c)(1), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations; or (2) enactment by Congress of titles II and III, of this act and of an amendment to D.C. Code § 11-1563 which amends the first sentence in subsection (a) by inserting after "per centum" the following: "(or, with respect to each pay period which begins on or after October 1, 1995, 4 1/2 per centum)" and an amendment to D.C. Code § 11-1564 (d)(1) which inserts after "United States Code," the following: "with respect to services performed before October 1, 1995, and equal to 4 1/2 per centum of such salary, pay, or compensation with respect to services performed on or after October 1, 1995,".

Section 3(b) of Pub. L. 111-282 provides:

"(b) IMPACT ON BENEFITS UNDER THE DISTRICT OF COLUMBIA POLICE AND FIREFIGHTERS' RETIREMENT AND DISABILITY SYSTEM. --

"(1) SALARY INCREASES FOR PURPOSES OF CERTAIN PENSIONS AND ALLOWANCES.--For purposes of section 3 of the Act entitled "An Act to provide increased pensions for widows and children of deceased members of the Police Department and the Fire Department of the District of Columbia", approved August 4, 1949 (sec. 5-744, D.C. Official Code) and section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (sec. 5-745, D.C. Official Code)--

" (A) the conversion of positions and members of the United States Secret Service Uniformed Division to appropriate ranks in the salary schedule set forth in this Act and the amendments made by this Act shall not be treated as an increase in the salary of individuals who are members of the United States Secret Service Uniformed Division on the date of the enactment of this Act; and

"(B) any adjustment of rates of basic pay of those positions and individuals in accordance with this Act and the amendments made by this Act which is made after such conversion shall be treated as an increase in the salary of individuals who are members of the United States Secret Service Uniformed Division on the date of the enactment of this Act."

"(2) TREATMENT OF RETIREMENT BENEFITS AND PENSIONS OF CURRENT AND FORMER MEMBERS.--Except as otherwise provided in this Act, nothing in this Act shall affect retirement benefits and pensions of current members and former members who have retired under the District of Columbia Police and Firefighters' Retirement and Disability System."

Section 4(a) of Pub. L. 111-282 provides:

"(a) IN GENERAL.--To the extent that any provision of any law codified in the District of Columbia Official Code that authorizes an entitlement to pay or hours of work for current members of the United States Secret Service Uniformed Division is not expressly revoked by this Act, such provision shall not apply to such members after the effective date of this Act."

## **§ 5-746. COMPUTATION OF PENSION OF CERTAIN RETIRED OFFICERS.**

In computing the pension relief allowance or retirement compensation of any such individual retired before July 1, 1953, as Major and Superintendent of Police, Assistant Superintendent of Police, Chief Engineer of the Fire Department, Deputy Chief Engineer of the Fire Department, or Battalion Chief Engineer of the Fire Department of the District of Columbia, such person shall, for the purposes of this act, be deemed to have retired as Chief of Police, Deputy Chief of Police, Fire Chief, Deputy Fire Chief, or Battalion Fire Chief, respectively.

(June 20, 1953, 67 Stat. 75, ch. 143, title III, § 302.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-606.

1973 Ed., § 4-519.

#### *References in Text*

"This act," referred to in this section, means the Act of June 20, 1953, 67 Stat. 75, ch. 143.

## **§ 5-747. RIGHTS AND RELIEF OF WIDOWS AND CHILDREN OF DECEASED FORMER MEMBERS.**

(a) Each widow or child who, on or after September 1, 1962, was receiving or is now receiving or shall hereafter be entitled to receive relief or annuity by reason of service in the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, of a deceased former officer or member who died in the service of any such organization prior to October 1, 1956, or who retired prior to such effective date, shall be entitled to benefits computed in accordance with the provisions of § 5-716.

(b) Nothing in this section shall be deemed to reduce the relief or retirement compensation any person receives, or is entitled to receive, on August 24, 1962.

(Aug. 24, 1962, 76 Stat. 402, Pub. L. 87-601, §§ 1, 2; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-634.

1973 Ed., § 4-539.

*Emergency Act Amendments*

For temporary establishment of a District of Columbia Police Officers' and Firefighters' Defined Benefit Pension Program, see title I, § 101-509 of the Police Officers', Firefighters' and Teachers' Defined Benefit Pension Program Emergency Establishment Act of 1996 (D.C. Act 11-369, August 21, 1996, 43 DCR 4637).

For temporary addition of section, see title III, § 103 of the Police Officers', Firefighters' and Teachers' Defined Benefit Pension Program Emergency Establishment Act of 1996 (D.C. Act 11-369, August 21, 1996, 43 DCR 4637).

Section 5 of D.C. Law 11-218 repealed D.C. Act 11-369.

For temporary repeal of the Police Officers', Fire Fighters', and Teachers' Defined Benefit Pension Program Emergency Establishment Act of 1996 (D.C. Act 11-369, August 21, 1996, 41 DCR 4637), see § 5 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 5 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

## **SUBCHAPTER IV. OFFICER REDEPLOYMENT.**

### **§ 5-761. RETIRED POLICE OFFICER REDEPLOYMENT.**

(a) Except for a disability annuitant, a police officer retired from the Metropolitan Police Department shall be eligible for rehire at the discretion of the Chief of the Metropolitan Police Department as a fully sworn temporary full-time or temporary part-time police officer without jeopardy to the retirement benefits of the police officer.

(b) A retired police officer who is rehired under this section shall be vested with full police powers, including, but not limited to, the authority to carry a firearm.

(c) Service under this section shall not count as creditable service for the purposes of § 5-704.

(d) A retired police officer who is rehired under this section shall be paid a salary of no more than that equal to the salary paid a Class 1, Step 5 Officer and shall not be eligible for longevity pay.

(e) Notwithstanding subsection (d) of this section, a rehired annuitant shall not be required to refund any salary paid prior to January 5, 1993.

(f) No retired police officer who is rehired under this section shall be detailed to any agency of the District of Columbia government other than the Metropolitan Police Department.

(g) The provisions of this section shall apply to any police officer hired after September 29, 1992.

(July 22, 1992, D.C. Law 9-132, § 2, 39 DCR 4058; Sept. 29, 1992, D.C. Law 9-163, § 2, 39 DCR 5705; Sept. 30, 1993, D.C. Law 10-17, § 2, 40 DCR 5453; Sept. 22, 1994, D.C. Law 10-170, § 2, 41 DCR 5147; Apr. 20, 1999, D.C. Law 12-253, § 2(a), 46 DCR 1274.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 4-618.1.

1973 Ed., § 4-635.

*Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 2 of Retired Police Officer Redeployment Temporary Amendment Act of 1989 (D.C. Law 8-3, May 23, 1989, law notification 36 DCR 4153).

For temporary (225 day) amendment of section, see § 2 of Retired Police Officer Annuity Salary and Deployment Clarification Temporary Amendment Act of 1992 (D.C. Law 9-265, March 31, 1993, law notification 39 DCR 2418).

For temporary (225 day) amendment of section, see § 3 of Juvenile Curfew and Retired Police Officer Redeployment Temporary Amendment Act of 1997 (D.C. Law 12-45, February 26, 1998, law notification 45 DCR 1506).

For temporary (225 day) amendment of section, see § 2(b) of Retired Police Officer Redeployment Temporary Amendment Act of 1998 (D.C. Law 12-204, March 26, 1999, law notification 46 DCR 3430).

*Temporary Addition of Section*

For temporary (225 day) addition of section, see § 2 of Retired Police Officer Redeployment Temporary Amendment Act of 1992 (D.C. Law 9-132, July 22, 1992, law notification 39 DCR 5813).

For temporary (225 day) addition of section, see § 2 of Retired Police Officer Public Schools Security Personnel Deployment Temporary Amendment Act of 1993 (D.C. Law 10-5, July 31, 1993, law notification 40 DCR 5629).

#### *Emergency Act Amendments*

For temporary addition of section, see § 2 of the Retired Police Officer Redeployment Emergency Amendment Act of 1992 (D.C. Act 9-201, April 24, 1992, 39 DCR 3215).

For temporary amendment of section, see § 2 of the Rehired Police Officer Annuitant Salary and Deployment Clarification Emergency Amendment Act of 1992 (D.C. Act 9-391, January 5, 1993, 40 DCR 1148). Section 3 of the act provided that its provisions shall be retroactive to the effective date of the Retired Police Officer Redeployment Amendment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; 39 DCR 5705).

For temporary eligibility of police officers retired from the Metropolitan Police Force to be rehired at the discretion of the Superintendent of the D.C. Public Schools as D.C. public school security personnel without jeopardy to their retirement benefits, see § 2 of the Retired Police Officer Public Schools Security Personnel Deployment Emergency Amendment Act of 1993 (D.C. Act 10-21, April 29, 1993, 40 DCR 2864).

#### *Legislative History of Laws*

Law 9-163, the "Retired Police Officer Redeployment Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-498, which was referred to the Committee on Government Operations and reassigned to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 21, 1992, it was assigned Act No. 9-258 and transmitted to both Houses of Congress for its review. D.C. Law 9-163 became effective on September 29, 1992.

Law 10-17, the "Rehired Police Annuitant Salary and Deployment Clarification Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-74, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-49 and transmitted to both Houses of Congress for its review. D.C. Law 10-17 became effective on September 30, 1993.

Law 10-170, the "Retired Police Officer Redeployment Salary Limit Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-471, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-290 and transmitted to both Houses of Congress for its review. D.C. Law 10-170 became effective on September 22, 1994.

Law 12-253, the "Retired Police Officer Redeployment Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-239, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 1, 1998 and December 15, 1998, respectively. Signed by the Mayor on December 29, 1998, it was assigned Act No. 12-601 and transmitted to both Houses of Congress for its review. D.C. Law 12-253 became effective on April 20, 1999.

#### *Effective Dates*

Section 3 of D.C. Law 10-17 provided that the provisions of the act shall be retroactive to the effective Dates of the Retired Police Officer Redeployment Amendment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; 39 DCR 5705).

#### *Editor's Notes*

The current version of this section was enacted following the expiration of the section as previously enacted. The prior version of the section was first temporarily enacted by D.C. Act 8-7 (March 21, 1989, 36 DCR 2239); it was next temporarily enacted by D.C. Law 8-3, effective May 23, 1989 (36 DCR 2373), with an expiration on the 225th day of its having taken effect. The section was permanently enacted by D.C. Law 8-95, effective March 15, 1990 (37 DCR 786), with an expiration on April 1, 1992.

#### *Miscellaneous Notes*

Metal detectors authorized: Section 4 of D.C. Law 10-5 provided that to the extent possible, the Board of Education shall install metal detectors in junior and senior high schools in accordance with the Board's commitment in the fiscal year 1992 budget process.

Expiration of Law 9-163: Section 6(b) of D.C. Law 9-163 provided that, except for section 5, the act shall expire on October 1, 1997.

Mayor authorized to issue regulations: Section 4 of D.C. Law 9-163 provided that the Mayor shall issue regulations necessary to carry out the provisions of this act.

Expiration of Law 9-163: Section 2(b) of D.C. Law 12-253 provided that § 6(b) of D.C. Law 9-163 is repealed.



## **§ 5-762. RETIRED POLICE OFFICER DEPLOYMENT AS PUBLIC SCHOOL SECURITY PERSONNEL.**

(a)(1) Except for disability annuitants, police officers retired from the Metropolitan Police force shall be eligible for rehire at the discretion of the Superintendent of the D.C. Public Schools as security personnel of the D.C. Public Schools without jeopardy to the retirement benefits of the police officers.

(2) Service pursuant to this section shall not count as creditable service for the purpose of § 5-704.

(3) A retired police officer who is rehired under this section shall be paid a salary of no more than that equal to the salary paid a Class 1, Step 1 Officer within the Metropolitan Police Department and shall not be eligible for longevity pay.

(4) A retired police officer who is rehired pursuant to this section shall be vested with the powers of a Special Police Officer with the Uniform Waivers pursuant to § 5-129.02, not including the authority to carry a firearm.

(b) All costs associated with the hiring of retired police officers as school security guards shall be absorbed within the D.C. Public Schools budget.

(c) A retired police officer who is rehired pursuant to this section and is vested with the powers of a Special Police Officer would be subject to the requirements of 6A DCMR, Chapter 11, which governs Special Police.

(July 23, 1994, D.C. Law 10-136, § 2, 41 DCR 3006; May 16, 1995, D.C. Law 10-255, § 48, 41 DCR 5193.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 4-618.2.

#### *Temporary Amendments of Section*

For temporary (225 day) addition of section, see § 2 of Retired Police Officer Public Schools Security Personnel Deployment Temporary Amendment Act of 1993 (D.C. Law 10-5, July 31, 1993, law notification 40 DCR 5629).

#### *Legislative History of Laws*

Law 10-136, the "Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-113, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 12, 1994, and May 3, 1994, respectively. Signed by the Mayor on May 18, 1994, it was assigned Act No. 10- 241 and transmitted to both Houses of Congress for its review. D.C. Law 10-136 became effective on July 23, 1994.

Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective on May 25, 1995.

#### *Miscellaneous Notes*

Application of Law 10-136: Section 6(b) of D.C. Law 10-136 provided that the act shall apply as of March 6, 1994.

Board to install metal detectors: Section 4 of D.C. Law 10-5 provided that "to the extent possible, the Board of Education shall install metal detectors in junior and senior high schools in accordance with the Board's commitment in the fiscal year 1992 budget process."