



Councilmember Tommy Wells

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Omnibus Public Safety Reform Amendment Act of 2004 to reclassify the procedure for a member of Fire and Emergency Medical Services who retires from the Department when facing disciplinary charges.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Firefighter Retirement While Under Disciplinary Investigation Amendment Act of 2014.”

Sec. 2. The Omnibus Public Safety Reform Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194), is amended as follows:

(a) Section 501 through 503 (codified in D.C. Code §§5-1031 and 5-1032) are designated as Subtitle A.

(b) A new Subtitle B is added to read as follows:

Subtitle B. Firefighter Retirement While Under Disciplinary Investigation.

“Sec. 2(a). Definitions.

“For the purposes of this subsection, the term:

1 “(1) “Conditional Retirement” means that a member has retired from the Fire and
2 Emergency Medical Services Department while under disciplinary investigation for serious
3 misconduct.

4 “(2) “Disciplinary Investigation” means any official investigation by the Fire and
5 Emergency Medical Services Department Office of Internal Affairs of allegations of serious
6 misconduct of a member of the Fire and Emergency Medical Services Department.

7 “(3) “Resignation” means the voluntary separation of a member from the Fire and
8 Emergency Medical Services Department before the member’s pension rights have accrued and
9 vested.

10 “(4) “Retirement” means the voluntary separation of a member from the Fire and
11 Emergency Medical Services Department after the member’s pension rights, retirement pay, or
12 other benefits have accrued and vested as provided by federal or District of Columbia law or
13 regulation.

14 “(5) “Serious Misconduct” means any felony violation of federal, local, or District
15 of Columbia law, making of a false statement under oath, falsification of official records or
16 reports, unnecessary force, comprising a felony or assisting a person to escape investigation or
17 prosecution, use of illegal controlled substances, or other violations as determined by the Chief
18 of Police by general order.

19 “Sec. 2b. Completion of disciplinary investigations.

1 “The Fire and Emergency Medical Services Department shall complete a disciplinary
2 investigation, including issuing findings pursuant to the general orders, of a member regardless
3 of whether that member resigns or retires while under investigation.

4 “Sec. 2c. Conditional retirement.

5 “(1) If a member of the Fire and Emergency Medical Services Department retires
6 or resigns while under disciplinary investigation, that member shall be deemed to be in
7 conditional retirement until the disciplinary investigation is completed and factual findings are
8 made.

9 “(2) A member who is in conditional retirement shall not be paid a pension or
10 receive other accrued benefits of any kind, including salary, compensatory time, or accrued
11 leave, during the pendency of the disciplinary investigation into his alleged misconduct.

12 “(3) The Fire and Emergency Medical Services Department shall complete the
13 disciplinary investigation of any member in conditional retirement within 25 days from the date
14 that the member retired or resigned. If the Fire and Emergency Medical Services Department has
15 not completed the investigation 25 days from the date of retirement or resignation, the matter
16 shall be deemed to be closed and the allegations of misconduct not sustained.

17 “(4) If, at any time during a member's conditional retirement, the Fire and
18 Emergency Medical Services Department finds that the allegations of serious misconduct are not
19 sustained or are unfounded, the matter shall be deemed to be closed and the member's pension
20 rights and accrued benefits shall be paid retroactive to the date on which the member initially
21 retired or resigned from the Fire and Emergency Medical Services Department.

1 “(5) If the Fire and Emergency Medical Services Department sustains the
2 allegations of serious misconduct, the disciplinary process shall proceed as if the member in
3 conditional retirement continued to be a member of the Metropolitan Police Department. The
4 member shall be accorded all rights to which he is entitled under federal and District of
5 Columbia law and regulations, police regulations, and any applicable labor agreement.

6 “(6) If the Fire and Emergency Medical Services Department ultimately
7 determines that a member in conditional retirement should be subjected to discipline as provided
8 by law and regulation, the member shall be subject to penalties in lieu of discipline as provided
9 in § 5-1604.

10 “(7) A member who retires or resigns from the Fire and Emergency Medical
11 Services Department without knowing that he or she was under disciplinary investigation for
12 serious misconduct shall not be deemed to be in conditional retirement, but shall instead be
13 provided the opportunity to continue employment with the Fire and Emergency Medical Services
14 Department during the pendency of the disciplinary investigation. Should the member decide to
15 retire or resign after he or she has been informed of the disciplinary investigation, he or she shall
16 be deemed to be in conditional retirement as provided in this section.

17 “Sec. 2d. Penalties in lieu of discipline for members in conditional retirement.

18 “(1) The Fire and Emergency Medical Services Department shall set the level of
19 discipline for a member in conditional retirement as if he or she continued to be a member of the
20 Fire and Emergency Medical Services Department.

1 “(2) A member in conditional retirement who would have received suspension as
2 discipline had he or she remained a member of the Fire and Emergency Medical Services
3 Department, shall be assessed a penalty of not less than \$100 and not greater than \$5,000,
4 depending on the length of suspension.

5 “(3) If a member in conditional retirement would have been terminated from the
6 Fire and Emergency Medical Services Department as discipline for serious misconduct the
7 member shall be assessed a penalty of not less than \$1,000 and not greater than \$5,000 in the
8 discretion of the Chief of the Fire and Emergency Medical Services Department, pursuant to
9 written standards developed by the Chief of Fire and Emergency Medical Services Department

10 “Sec. 2e. Payments of penalties.

11 “Penalties assessed against a member in conditional retirement as provided in subsection
12 (d) of this act, shall be treated as a debt owed to the District of Columbia government and shall
13 be deducted from the member's pension, retirement pay, or any other accrued benefits.

14 “Sec. 2f. Administrative review.

15 “A member in conditional retirement may challenge the imposition of penalties imposed
16 by subsection (d) and subsection (e) of this act, in an administrative proceeding before the
17 District of Columbia Office of Employee Appeals, pursuant to Chapter 5 of Title 2.

18 “Sec. 2g. Applicability.

19 “This chapter shall apply upon adoption of regulations by the Chief of Fire and
20 Emergency Medical Services Department to implement this chapter. The Fire and Emergency

1 Medical Services Department shall adopt such regulations within 60 days of implementation of
2 the act.”.

3 Sec. 3. Fiscal impact statement.

4 The Council adopts the fiscal impact statement in the committee report as the fiscal
5 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
6 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

7 Sec. 4. Effective date.

8 This act shall take effect following approval by the Mayor (or in the event of veto by the
9 Mayor, action by Council to override the veto), a 30-day period of Congressional review as
10 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
11 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
12 Columbia Register.

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