

ASSEMBLY, No. 4882

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 15, 2019

Sponsored by:

Assemblyman JAMES J. KENNEDY

District 22 (Middlesex, Somerset and Union)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

**Assemblyman Milam, Assemblywoman Reynolds-Jackson, Assemblymen
S.Kean and McGuckin**

SYNOPSIS

Permits member or retirant of PFRS to receive accidental disability retirement allowance for disability resulting from participation in 9/11 World Trade Center rescue, recovery, or cleanup operations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/12/2019)

1 AN ACT concerning the accidental disability retirement allowance
2 for members of the Police and Firemen's Retirement System and
3 amending P.L.1944, c.255.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 7 of P.L.1944, c.255 (C.43:16A-7) is amended to
9 read as follows:

10 7. a. (1) Upon the written application by a member in service,
11 by one acting in his behalf or by his employer any member may be
12 retired on an accidental disability retirement allowance; provided,
13 that the medical board, after a medical examination of such
14 member, shall certify that the member is permanently and totally
15 disabled as a direct result of a traumatic event occurring during and
16 as a result of the performance of his regular or assigned duties and
17 that such disability was not the result of the member's willful
18 negligence and that such member is mentally or physically
19 incapacitated for the performance of his usual duty and of any other
20 available duty in the department which his employer is willing to
21 assign to him. The application to accomplish such retirement must
22 be filed within five years of the original traumatic event, but the
23 board of trustees may consider an application filed after the five-
24 year period if it can be factually demonstrated to the satisfaction of
25 the board of trustees that the disability is due to the accident and the
26 filing was not accomplished within the five-year period due to a
27 delayed manifestation of the disability or to other circumstances
28 beyond the control of the member.

29 (2) Upon retirement for accidental disability, a member shall
30 receive an accidental disability retirement allowance which shall
31 consist of:

32 (a) An annuity which shall be the actuarial equivalent of his
33 aggregate contributions and

34 (b) A pension in the amount which, when added to the member's
35 annuity, will provide a total retirement allowance of 2/3 of the
36 member's actual annual compensation for which contributions were
37 being made at the time of the occurrence of the accident or at the
38 time of the member's retirement, whichever provides the largest
39 possible benefit to the member.

40 (3) Upon receipt of proper proofs of the death of a member who
41 has retired on accidental disability retirement allowance, there shall
42 be paid to such member's beneficiary, an amount equal to 3 1/2
43 times the compensation upon which contributions by the member to
44 the annuity savings fund were based in the last year of creditable
45 service; provided, however, that if such death shall occur after the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 member shall have attained 55 years of age the amount payable
2 shall equal 1/2 of such compensation instead of 3 1/2 times such
3 compensation.

4 (4) Permanent and total disability resulting from a
5 cardiovascular, pulmonary or musculo-skeletal condition which was
6 not a direct result of a traumatic event occurring in the performance
7 of duty shall be deemed an ordinary disability.

8 b. (1) For purposes of this subsection:

9 “Qualifying condition or impairment of health” includes:

10 diseases of the upper respiratory tract and mucosae, including
11 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
12 laryngitis, vocal cord disease, upper airway hyper-reactivity and
13 tracheo-bronchitis, or a combination of such conditions;

14 diseases of the lower respiratory tract, including but not limited
15 to bronchitis, asthma, reactive airway dysfunction syndrome, and
16 different types of pneumonitis, such as hypersensitivity,
17 granulomatous, or eosinophilic;

18 diseases of the gastroesophageal tract, including esophagitis
19 and reflux disease, either acute or chronic, caused by exposure or
20 aggravated by exposure;

21 diseases of the psychological axis, including post-traumatic
22 stress disorder, anxiety, depression, or any combination of such
23 conditions;

24 diseases of the skin such as contact dermatitis or burns, either
25 acute or chronic in nature, infectious, irritant, allergic, idiopathic or
26 non-specific reactive in nature, caused by exposure or aggravated
27 by exposure; and

28 new onset diseases resulting from exposure as such diseases
29 occurring in the future including cancer, chronic obstructive
30 pulmonary disease, asbestos-related disease, heavy metal poisoning,
31 musculoskeletal disease and chronic psychological disease.

32 “World Trade Center rescue, recovery, or cleanup operations”
33 means the rescue, recovery, or cleanup operations at the World
34 Trade Center site between September 11, 2001 and October 11,
35 2001.

36 “World Trade Center site” means any location below a line
37 starting from the Hudson River and Canal Street, east on Canal
38 Street to Pike Street, south on Pike Street to the East River, and
39 extending to the lower tip of Manhattan.

40 (2) Notwithstanding any provision of subsection a. of this
41 section or any other law to the contrary, for a member who
42 participated, whether or not under orders or instruction by an
43 employer to so participate, in World Trade Center rescue, recovery,
44 or cleanup operations for a minimum of eight hours, permanent and
45 total disability resulting from a qualifying condition or impairment
46 of health shall be presumed to have occurred during and as a result
47 of the performance of the member’s regular or assigned duties and

1 not the result of the member's willful negligence, unless the
2 contrary can be proved by competent evidence.

3 A member who did not participate in such operations for a
4 minimum of eight hours shall be eligible for the presumption
5 provided that:

6 the member participated in the rescue, recovery, or cleanup
7 operations at the World Trade Center site between September 11,
8 2001 and September 12, 2001;

9 the member sustained a documented physical injury at the World
10 Trade Center site between September 11, 2001 and September 12,
11 2001 that is a qualifying condition or impairment of health resulting
12 in a disability to the member that prevented the member from
13 continuing to participate in World Trade Center rescue, recovery, or
14 cleanup operations for a minimum of eight hours; and

15 the documented physical injury that resulted in a disability to the
16 member that prevented the member from continuing to participate
17 in World Trade Center rescue, recovery, or cleanup operations for a
18 minimum of eight hours is the qualifying condition or impairment
19 of health for which the member seeks a presumption under this
20 subsection.

21 In order to be eligible for the presumption provided under this
22 subsection, a member shall have successfully passed a physical
23 examination for entry into public service which failed to disclose
24 evidence of the qualifying condition or impairment of health that
25 formed the basis for the permanent and total disability.

26 (3) A member who participated in the World Trade Center
27 rescue, recovery, or cleanup operations a minimum of eight hours
28 and subsequently retired on a service retirement or an ordinary
29 disability retirement and thereafter incurred a disability caused by a
30 qualifying condition or impairment of health which the medical
31 board determines to be caused by participation in World Trade
32 Center rescue, recovery or cleanup operations shall be eligible to
33 apply to the board of trustees to have the member's retirement
34 allowance recalculated as an accidental disability retirement
35 allowance for benefit payments on or after the date of the
36 application, provided the member filed an application for such
37 recalculation within 30 days of the date that the member knew or
38 should have known of the existence of such disability and its
39 relation to the rescue, recovery, or cleanup operations. In order to
40 be eligible for such recalculation, the member shall have
41 successfully passed a physical examination for entry into public
42 service which failed to disclose evidence of the qualifying condition
43 or impairment of health that formed the basis for the disability.

44 (4) The board of trustees shall promulgate rules and regulations
45 necessary to implement the provisions of this subsection and shall
46 notify members and retirants in the retirement system of the
47 enactment of this act, P.L. , c. (pending before the Legislature
48 as this bill), within 30 days of enactment.

1 A member shall not be eligible for the presumption or
2 recalculation under this subsection unless within two years of the
3 effective date of this act, P.L. , c. (pending before the
4 Legislature as this bill), the member files a written and sworn
5 statement with the retirement system on a form provided by the
6 board of trustees thereof indicating the dates and locations of
7 service.

8 (cf: P.L.1997, c.281, s.1)

9

10 2. This act shall take effect immediately.

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STATEMENT

14

15 This bill provides that a member or retirant of the Police and
16 Firemen’s Retirement System (PFRS) is eligible to receive an
17 accidental disability retirement allowance for a permanent and total
18 disability resulting from participation in 9/11 World Trade Center
19 rescue, recovery, or cleanup operations.

20 The bill provides that permanent and total disability resulting
21 from a qualifying condition or impairment of health will be
22 presumed to have occurred during and as a result of the
23 performance of a member’s regular or assigned duties and not the
24 result of the member’s willful negligence, unless the contrary can
25 be proved by competent evidence, if the member participated, in
26 World Trade Center rescue, recovery, or cleanup operations for a
27 minimum of eight hours. The presumption is available whether or
28 not the member was under orders or instruction by an employer to
29 participate.

30 The bill also permits a member who did not participate in those
31 operations for a minimum of eight hours to be eligible for the
32 presumption provided that:

33 the member participated in the rescue, recovery, or cleanup
34 operations at the World Trade Center site between September 11,
35 2001 and September 12, 2001;

36 the member sustained a documented physical injury at the World
37 Trade Center site between September 11, 2001 and September 12,
38 2001 that is a qualifying condition or impairment of health resulting
39 in a disability to the member that prevented the member from
40 continuing to participate for a minimum of eight hours; and

41 the injury that resulted in a disability that prevented the member
42 from continuing to participate for a minimum of eight hours is the
43 qualifying condition or impairment of health for which the member
44 is seeking a presumption.

45 In order to be eligible for the presumption a member must have
46 successfully passed a physical examination for entry into public
47 service which failed to disclose evidence of the qualifying condition
48 or impairment of health.

1 The bill also provides for a reclassification of a retirant's
2 retirement from a service retirement or an ordinary disability
3 retirement to an accidental disability retirement if the retirant, while
4 a member of the retirement system, participated in the World Trade
5 Center rescue, recovery, or cleanup operations a minimum of eight
6 hours and incurred a disability in retirement caused by a qualifying
7 condition or impairment of health which the medical board
8 determines to be caused by the member's participation in World
9 Trade Center rescue, recovery or cleanup operations.

10 The recalculation of the benefit is for benefit payments on or
11 after the date of the application, provided the member filed an
12 application for recalculation within 30 days of the date that the
13 member knew or should have known of the existence of the
14 disability and its relation to the rescue, recovery, or cleanup
15 operations. In order to be eligible for the recalculation, the member
16 must have successfully passed a physical examination for entry into
17 public service which failed to disclose evidence of the qualifying
18 condition or impairment of health that formed the basis for the
19 disability.

20 The bill requires the board of trustees to promulgate rules and
21 regulations and to notify members and retirants in the retirement
22 system of the enactment of this bill within 30 days of enactment.

23 In order to be eligible for the presumption or recalculation under
24 the bill, the member is to file, within two years of the effective date
25 of this act, a written and sworn statement with the retirement system
26 on a form provided by the board of trustees indicating the dates and
27 locations of service.

28 The bill delineates the diseases that qualify as a qualifying
29 condition or impairment of health and defines "World Trade Center
30 rescue, recovery, or cleanup operations" to mean the rescue,
31 recovery, or cleanup operations at the World Trade Center site
32 between September 11, 2001 and October 11, 2001. The bill also
33 defines "World Trade Center site" to mean any location below a
34 line starting from the Hudson River and Canal Street, east on Canal
35 Street to Pike Street, south on Pike Street to the East River, and
36 extending to the lower tip of Manhattan.