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ASSEMBLY, No. 4882

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JANUARY 15, 2019

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SYNOPSIS

Permits member or retirant of PFRS or SPRS 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 reported by the Assembly Homeland Security and State Preparedness Committee on March 11, 2019, with amendments.

(Sponsorship Updated As Of: 5/24/2019)

1 AN ACT concerning the accidental disability retirement allowance
2 for members of the Police and Firemen's Retirement System and
3 'the State Police Retirement System and'¹ amending P.L.1944,
4 c.255 ¹ and P.L.1965, c. 89¹.

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

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

11 7. a. (1) Upon the written application by a member in service, by
12 one acting in his behalf or by his employer any member may be retired
13 on an accidental disability retirement allowance; provided, that the
14 medical board, after a medical examination of such member, shall
15 certify that the member is permanently and totally disabled as a direct
16 result of a traumatic event occurring during and as a result of the
17 performance of his regular or assigned duties and that such disability
18 was not the result of the member's willful negligence and that such
19 member is mentally or physically incapacitated for the performance of
20 his usual duty and of any other available duty in the department which
21 his employer is willing to assign to him. The application to
22 accomplish such retirement must be filed within five years of the
23 original traumatic event, but the board of trustees may consider an
24 application filed after the five-year period if it can be factually
25 demonstrated to the satisfaction of the board of trustees that the
26 disability is due to the accident and the filing was not accomplished
27 within the five-year period due to a delayed manifestation of the
28 disability or to other circumstances 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 time
38 of the member's retirement, whichever provides the largest possible
39 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 be
42 paid to such member's beneficiary, an amount equal to 3 1/2 times the
43 compensation upon which contributions by the member to the annuity
44 savings fund were based in the last year of creditable service;
45 provided, however, that if such death shall occur after the member

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHS committee amendments adopted March 11, 2019.

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

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

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

8 “Qualifying condition or impairment of health” includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (3) A member who participated in the World Trade Center rescue,
25 recovery, or cleanup operations ¹for¹ a minimum of eight hours and
26 subsequently retired on a service retirement or an ordinary disability
27 retirement and thereafter incurred a disability caused by a qualifying
28 condition or impairment of health which the medical board determines
29 to be caused by participation in World Trade Center rescue, recovery
30 ¹,¹ or cleanup operations shall be eligible to apply to the board of
31 trustees to have the member's retirement allowance recalculated as an
32 accidental disability retirement allowance for benefit payments on or
33 after the date of the application, provided the member filed an
34 application for such recalculation within 30 days of the date that the
35 member knew or should have known of the existence of such disability
36 and its relation to the rescue, recovery, or cleanup operations. In order
37 to be eligible for such recalculation, the member shall have
38 successfully passed a physical examination for entry into public
39 service which failed to disclose evidence of the qualifying condition or
40 impairment of health that formed the basis for the disability.

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

46 A member shall not be eligible for the presumption or recalculation
47 under this subsection unless within two years of the effective date of
48 this act, P.L. , c. (pending before the Legislature as this bill), the

1 member files a written and sworn statement with the retirement system
2 on a form provided by the board of trustees thereof indicating the dates
3 and locations of service.

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

5

6 ¹2. Section 10 of P.L.1965, c. 89 (C.53:5A-10) is amended to read
7 as follows:

8 10. a. Upon the written application by a member in service, by
9 one acting in his behalf or by the State, any member may be retired,
10 not less than 1 month next following the date of filing such
11 application, on an accidental disability retirement allowance,
12 provided, that the medical board, after a medical examination of such
13 member, shall certify that the member is permanently and totally
14 disabled as a direct result of a traumatic event occurring during and as
15 a result of the performance of his regular or assigned duties and that
16 such disability was not the result of the member's willful negligence
17 and that such member is mentally or physically incapacitated for the
18 performance of his usual duties in the Division of State Police which
19 the Superintendent of State Police is willing to assign to him. The
20 application to accomplish such retirement must be filed within 5 years
21 of the original traumatic event, but the board of trustees may consider
22 an application filed after the 5-year period if it can be factually
23 demonstrated to the satisfaction of the board of trustees that the
24 disability is due to the accident and the filing was not accomplished
25 within the 5-year period due to a delayed manifestation of the
26 disability or to the member's continued employment in a restricted
27 capacity consistent with the nature of his disability in the Division of
28 the State Police upon and at the written request of the superintendent,
29 with the concurrence of the Attorney General, or to other
30 circumstances beyond the control of the member.

31 b. Upon retirement for accidental disability, a member shall
32 receive an accidental disability retirement allowance which shall
33 consist of:

34 (1) An annuity which shall be the actuarial equivalent of his
35 aggregate contributions and

36 (2) A pension in the amount which, when added to the member's
37 annuity, will provide a total retirement allowance of $\frac{2}{3}$ of his final
38 compensation.

39 c. Upon the receipt of proper proofs of the death of a member
40 who has retired on an accidental disability retirement allowance, there
41 shall be paid to the member's beneficiary, an amount equal to $3\frac{1}{2}$
42 times the final compensation received by the member in the last year
43 of creditable service; provided, however, that if such death shall occur
44 after the member shall have attained 55 years of age the amount
45 payable shall equal $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times
46 such compensation.

47 d. Permanent and total disability resulting from a cardiovascular,
48 pulmonary or musculo-skeletal condition which was not a direct result

1 of a traumatic event occurring in the performance of duty shall be
2 deemed an ordinary disability.

3 e. (1) For purposes of this subsection:

4 “Qualifying condition or impairment of health” includes:

5 diseases of the upper respiratory tract and mucosae, including
6 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
7 laryngitis, vocal cord disease, upper airway hyper-reactivity and
8 tracheo-bronchitis, or a combination of such conditions;

9 diseases of the lower respiratory tract, including but not limited to
10 bronchitis, asthma, reactive airway dysfunction syndrome, and
11 different types of pneumonitis, such as hypersensitivity,
12 granulomatous, or eosinophilic;

13 diseases of the gastroesophageal tract, including esophagitis and
14 reflux disease, either acute or chronic, caused by exposure or
15 aggravated by exposure;

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

18 diseases of the skin such as contact dermatitis or burns, either acute
19 or chronic in nature, infectious, irritant, allergic, idiopathic or non-
20 specific reactive in nature, caused by exposure or aggravated by
21 exposure; and

22 new onset diseases resulting from exposure as such diseases
23 occurring in the future including cancer, chronic obstructive
24 pulmonary disease, asbestos-related disease, heavy metal poisoning,
25 musculoskeletal disease and chronic psychological disease.

26 “World Trade Center rescue, recovery, or cleanup operations”
27 means the rescue, recovery, or cleanup operations at the World Trade
28 Center site between September 11, 2001 and October 11, 2001.

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

33 (2) Notwithstanding any provision of subsection a. of this section
34 or any other law to the contrary, for a member who participated,
35 whether or not under orders or instruction by an employer to so
36 participate, in World Trade Center rescue, recovery, or cleanup
37 operations for a minimum of eight hours, permanent and total
38 disability resulting from a qualifying condition or impairment of health
39 shall be presumed to have occurred during and as a result of the
40 performance of the member’s regular or assigned duties and not the
41 result of the member’s willful negligence, unless the contrary can be
42 proved by competent evidence.

43 A member who did not participate in such operations for a
44 minimum of eight hours shall be eligible for the presumption provided
45 that:

46 the member participated in the rescue, recovery, or cleanup
47 operations at the World Trade Center site between September 11, 2001
48 and September 12, 2001;

1 the member sustained a documented physical injury at the World
2 Trade Center site between September 11, 2001 and September 12,
3 2001 that is a qualifying condition or impairment of health resulting in
4 a disability to the member that prevented the member from continuing
5 to participate in World Trade Center rescue, recovery, or cleanup
6 operations for a minimum of eight hours; and

7 the documented physical injury that resulted in a disability to the
8 member that prevented the member from continuing to participate in
9 World Trade Center rescue, recovery, or cleanup operations for a
10 minimum of eight hours is the qualifying condition or impairment of
11 health for which the member seeks a presumption under this
12 subsection.

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

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

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

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

46 (cf: P.L.1971, c.181, s.8)

47
48 ¹[2.] 3.¹ This act shall take effect immediately.