

ASSEMBLY, No. 355

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblywoman ANNETTE CHAPARRO

District 33 (Hudson)

Co-Sponsored by:

Assemblymen Egan, Coughlin, Giblin, Johnson, McKeon, Assemblywomen B.DeCroce, Tucker, Jasey, Assemblymen DiMaio, Mazzeo, Armato, Caputo, Dancer, DeAngelo, Assemblywomen Murphy, Carter, Sumter, Assemblyman Verrelli, Assemblywoman Timberlake, Assemblyman Chiaravalloti, Assemblywomen Vainieri Huttie, Downey, Assemblymen Benson, Wimberly, Clifton, Assemblywoman Jimenez, Assemblyman Mejia, Assemblywoman Reynolds-Jackson, Assemblymen Burzichelli, Houghtaling, Taliaferro, Freiman, Danielsen, Assemblywomen Lopez, Quijano, Assemblyman Zwicker, Assemblywoman Mosquera, Assemblymen Karabinchak, Tully, Assemblywoman Swain, Assemblyman Rooney, Assemblywoman Speight, Assemblymen Calabrese, Bramnick, Holley and Mukherji

SYNOPSIS

Permits application for PERS accidental disability benefit for injury sustained after January 2003 while employed at State psychiatric institution or correctional facility immediately prior to PERS membership.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

1 **AN ACT** concerning eligibility for an accidental disability benefit
2 under the Public Employees' Retirement System and amending
3 P.L.1954, c.84 and N.J.S.11A:2-11.

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

7
8 1. Section 43 of P.L.1954, c.84 (C.43:15A-43) is amended to
9 read as follows:

10 43. A member who has not attained age 65 shall, upon the
11 application of the head of the department in which he is employed
12 or upon his own application or the application of one acting in his
13 behalf, be retired by the board of trustees, if said employee is
14 permanently and totally disabled as a direct result of a traumatic
15 event occurring during and as a result of the performance of his
16 regular or assigned duties, on an accidental disability allowance. A
17 traumatic event occurring during voluntary performance of regular
18 or assigned duties at a place of employment before or after required
19 hours of employment which is not in violation of any valid work
20 rule of the employer or otherwise prohibited by the employer shall
21 be deemed as occurring during the performance of regular or
22 assigned duties. A traumatic event (1) occurring during and as a
23 result of the performance of a State employee's regular or assigned
24 duties as, but not limited to, a doctor, nurse, healthcare worker,
25 social worker, or correction officer caring for or guarding
26 individuals who are permanently or temporarily incarcerated for any
27 reason at Trenton Psychiatric Hospital, any other State psychiatric
28 institution or any State correctional facility and (2) occurring when
29 the employee is employed temporarily and not yet eligible for
30 membership in the retirement system shall be deemed as occurring
31 during membership, if the employee becomes a member of the
32 retirement system without interruption in that employment.

33 The application to accomplish such retirement must be filed
34 within five years of the original traumatic event, but the board of
35 trustees may consider an application filed after the five-year period
36 if it can be factually demonstrated to the satisfaction of the board of
37 trustees that the disability is due to the accident and the filing was
38 not accomplished within the five-year period due to a delayed
39 manifestation of the disability or to circumstances beyond the
40 control of the member.

41 Permanent and total disability resulting from a cardiovascular,
42 pulmonary or musculo-skeletal condition which was not a direct
43 result of a traumatic event occurring in the performance of duty
44 shall be deemed an ordinary disability.

45 Before consideration of the application by the board of trustees,

**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 the physician or physicians designated by the board shall have first
2 made a medical examination of the member at his residence or at
3 any other place mutually agreed upon and shall have certified to the
4 board that he is physically or mentally incapacitated for the
5 performance of duty, and should be retired, and the appointing
6 authority shall have certified to the board that the member is
7 permanently and totally disabled as a direct result of a traumatic
8 event occurring during and as a result of the performance of his
9 regular or assigned duties, the time and place where the duty
10 causing the disability was performed, that the disability was not the
11 result of his willful negligence and that the member should be
12 retired.

13 No person who becomes a member of the retirement system on
14 or after the effective date of P.L.2010, c.3 shall be eligible for
15 retirement pursuant to this section.

16 (cf: P.L.2010, c.3, s.9)

17

18 2. N.J.S.11A:2-11 is amended to read as follows:

19 11A:2-11. Powers and duties of the commission. In addition to
20 other powers and duties vested in the commission by this title or
21 any other law, the commission:

22 a. (Deleted by amendment, P.L.2008, c.29);

23 b. May appoint employees necessary to enforce or implement
24 the provisions of this title. All employees of the commission whose
25 principal duties relate to the enforcement or implementation of this
26 title shall be confidential employees for the purposes of the "New
27 Jersey Employer-Employee Relations Act," P.L.1941,
28 c.100 (C.34:13A-1 et seq.);

29 c. Shall maintain a management information system necessary
30 to carry out the provisions of this title;

31 d. Shall have the authority to audit payrolls, reports or
32 transactions for conformity with the provisions of this title;

33 e. Shall plan, evaluate, administer and implement personnel
34 programs and policies in State government and political
35 subdivisions operating under this title, including a personnel
36 orientation program that informs new employees of State
37 psychiatric institutions and State correctional facilities of the risk of
38 injury occurring during and as a result of the performance of their
39 regular or assigned duties;

40 f. Shall establish and supervise the selection process and
41 employee performance evaluation procedures;

42 g. (Deleted by amendment, P.L.2008, c.29);

43 h. Shall set standards and procedures for review and render the
44 final administrative decision on a written record or after
45 recommendation by an independent reviewer assigned by the
46 commission from classification, salary, layoff rights and in the State
47 service noncontractual grievances;

- 1 i. May establish pilot programs and other projects for a
- 2 maximum of one year outside of the provisions of this title;
- 3 j. Shall provide for a public employee interchange program
- 4 pursuant to the "Government Employee Interchange Act of 1967,"
- 5 P.L.1967, c.77 (C.52:14-6.10 et seq.) and may provide for an
- 6 employee interchange program between public and private sector
- 7 employees;
- 8 k. (Deleted by amendment, P.L.2008, c.29);
- 9 l. (Deleted by amendment, P.L.2008, c.29);
- 10 m. Shall establish and consult with advisory boards representing
- 11 political subdivisions, personnel officers, labor organizations and
- 12 other appropriate groups;
- 13 n. Shall make an annual report to the Governor and Legislature
- 14 and all other special or periodic reports as may be required. The
- 15 annual report shall indicate the number of persons, by title, who, on
- 16 March 31, June 30, September 30, and December 31 of each year,
- 17 held appointments to positions in the senior executive service and
- 18 the number of noncareer employees by title, who, on those same
- 19 dates, held appointments in positions in the senior executive
- 20 service; and
- 21 o. Shall have the authority to assess costs for special or other
- 22 services;
- 23 p. (Deleted by amendment, P.L.2008, c.29).
- 24 (cf: P.L.2008, c.29, s.8)

25
26 3. This act shall take effect immediately and shall be
27 retroactive to January 1, 2003.
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29

30 STATEMENT

31
32 This bill allows a member of the Public Employees' Retirement
33 System (PERS) to apply for accidental disability benefits based upon
34 an injury sustained while employed temporarily at Trenton Psychiatric
35 Hospital, any other State psychiatric institution or any State
36 correctional facility, which injury continues to be disabling after the
37 person becomes a PERS member. Temporary public employees are
38 not eligible for PERS membership until the employment becomes
39 permanent or the passage of one year, whichever occurs first.
40 Currently, persons employed temporarily at any State psychiatric
41 institution or any State correctional facility who are injured while
42 ineligible for PERS membership are eligible for workers compensation
43 benefits only. They are not eligible for PERS accidental disability
44 benefits even after attaining PERS member status because the injury
45 occurred when not a PERS member.

46 The bill provides that, for purposes of application for a PERS
47 accidental disability benefit, a traumatic event (1) occurring during and
48 as a result of the performance of a State employee's regular or

1 assigned duties as, but not limited to, a doctor, nurse, healthcare
2 worker, social worker, or correction officer caring for or guarding
3 individuals who are permanently or temporarily incarcerated for any
4 reason at Trenton Psychiatric Hospital, any other State psychiatric
5 institution or any State correctional facility and (2) occurring when the
6 employee is employed temporarily and not yet eligible for membership
7 in the retirement system will be deemed as occurring during
8 membership, if the employee becomes a member of the retirement
9 system without interruption in that employment. The bill's provisions
10 would apply retroactively to January 1, 2003.

11 In addition, the bill also adds to the duties of the Civil Service
12 Commission a personnel orientation program that informs new
13 employees of State psychiatric institutions and State correctional
14 facilities of the risk of injury occurring during and as a result of the
15 performance of their regular or assigned duties.