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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

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

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

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

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

(3) Upon receipt of proper proofs of the death of a member who has retired on accidental disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to 3 1/2 times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable 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.
member shall have attained 55 years of age the amount payable
shall equal 1/2 of such compensation instead of 3 1/2 times such
compensation.

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

b. (1) For purposes of this subsection:
“Qualifying condition or impairment of health” includes:
diseases of the upper respiratory tract and mucosae, including
conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
laryngitis, vocal cord disease, upper airway hyper-reactivity and
tracheo-bronchitis, or a combination of such conditions;
diseases of the lower respiratory tract, including but not limited
to bronchitis, asthma, reactive airway dysfunction syndrome, and
different types of pneumonitis, such as hypersensitivity,
granulomatous, or eosinophilic;
diseases of the gastrointestinal tract, including esophagitis
and reflux disease, either acute or chronic, caused by exposure or
aggravated by exposure;
diseases of the psychological axis, including post-traumatic
stress disorder, anxiety, depression, or any combination of such
conditions;
diseases of the skin such as contact dermatitis or burns, either
acute or chronic in nature, infectious, irritant, allergic, idiopathic or
non-specific reactive in nature, caused by exposure or aggravated
by exposure; and
new onset diseases resulting from exposure as such diseases
occurring in the future including cancer, chronic obstructive
pulmonary disease, asbestos-related disease, heavy metal poisoning,
musculoskeletal disease and chronic psychological disease.

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

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

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

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

- the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September 11, 2001 and September 12, 2001;
- the member sustained a documented physical injury at the World Trade Center site between September 11, 2001 and September 12, 2001 that is a qualifying condition or impairment of health resulting in a disability to the member from continuing to participate in World Trade Center rescue, recovery, or cleanup operations for a minimum of eight hours; and
- the documented physical injury that resulted in a disability to the member that prevented the member from participating in World Trade Center rescue, recovery, or cleanup operations for a minimum of eight hours is the qualifying condition or impairment of health for which the member seeks a presumption under this subsection.

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

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

(4) The board of trustees shall promulgate rules and regulations necessary to implement the provisions of this subsection and shall notify members and retirees in the retirement system of the enactment of this act, P.L. , c. (pending before the Legislature as this bill), within 30 days of enactment.
A member shall not be eligible for the presumption or recalculation under this subsection unless within two years of the effective date of this act, P.L.____, c.____ (pending before the Legislature as this bill), the member files a written and sworn statement with the retirement system on a form provided by the board of trustees thereof indicating the dates and locations of service.

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

2. This act shall take effect immediately.

STATEMENT

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

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

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

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

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

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

In order to be eligible for the presumption a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health.
The bill also provides for a reclassification of a retirant’s retirement from a service retirement or an ordinary disability retirement to an accidental disability retirement if the retirant, while a member of the retirement system, participated in the World Trade Center rescue, recovery, or cleanup operations a minimum of eight hours and incurred a disability in retirement caused by a qualifying condition or impairment of health which the medical board determines to be caused by the member’s participation in World Trade Center rescue, recovery or cleanup operations.

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

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

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

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