

[Second Reprint]
ASSEMBLY, No. 4882

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JANUARY 15, 2019

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SYNOPSIS

Permits certain members or retirees of PFRS, SPRS, or PERS 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 Senate State Government, Wagering, Tourism & Historic Preservation Committee on June 6, 2019, with amendments.

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

AN ACT concerning the accidental disability retirement allowance for members of the Police and Firemen's Retirement System ²[and], ¹the State Police Retirement System ²[and¹] , and the Public Employees' Retirement System and² amending P.L.1944, c.255 ²[¹and], ² P.L.1965, c. 89¹ ², and P.L.1954, c.84².

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

²1. This act, P.L. , c. , shall be known and may be cited as "The Bill Ricci World Trade Center Rescue, Recovery, and Cleanup Operations Act."²

²[1.] ²2. 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.

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.

²Senate SSG committee amendments adopted June 6, 2019.

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

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

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

14 “Qualifying condition or impairment of health” includes:

15 diseases of the upper respiratory tract and mucosae, including
16 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
17 laryngitis, vocal cord disease, upper airway hyper-reactivity and
18 tracheo-bronchitis, or a combination of such conditions;

19 diseases of the lower respiratory tract, including but not limited to
20 bronchitis, asthma, reactive airway dysfunction syndrome, and
21 different types of pneumonitis, such as hypersensitivity,
22 granulomatous, or eosinophilic;

23 diseases of the gastroesophageal tract, including esophagitis and
24 reflux disease, either acute or chronic, caused by exposure or
25 aggravated by exposure;

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

28 diseases of the skin such as contact dermatitis or burns, either acute
29 or chronic in nature, infectious, irritant, allergic, idiopathic or non-
30 specific reactive in nature, caused by exposure or aggravated by
31 exposure; and

32 new onset diseases resulting from exposure as such diseases
33 occurring in the future including cancer, chronic obstructive
34 pulmonary disease, asbestos-related disease, heavy metal poisoning,
35 musculoskeletal disease and chronic psychological disease.

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

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

43 (2) Notwithstanding any provision of subsection a. of this section
44 or any other law to the contrary, for a member who participated,
45 whether or not under orders or instruction by an employer to so
46 participate, in World Trade Center rescue, recovery, or cleanup
47 operations for a minimum of eight hours, permanent and total
48 disability resulting from a qualifying condition or impairment of health

1 shall be presumed to have occurred during and as a result of the
2 performance of the member's regular or assigned duties and not the
3 result of the member's willful negligence, unless the contrary can be
4 proved by competent evidence.

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

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

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

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

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

28 (3) A member who participated in the World Trade Center rescue,
29 recovery, or cleanup operations ¹for¹ a minimum of eight hours and
30 subsequently retired on a service retirement or an ordinary disability
31 retirement and thereafter incurred a disability caused by a qualifying
32 condition or impairment of health which the medical board determines
33 to be caused by participation in World Trade Center rescue, recovery
34 ¹, ¹ or cleanup operations shall be eligible to apply to the board of
35 trustees to have the ²[member's] retiree's² retirement allowance
36 recalculated as an accidental disability retirement allowance for benefit
37 payments on or after the date of the application, provided the
38 ²[member] retiree² filed an application for such recalculation within
39 30 days of the date that the ²[member] retiree² knew or should have
40 known of the existence of such disability and its relation to the rescue,
41 recovery, or cleanup operations. In order to be eligible for such
42 recalculation, the ²[member] retiree² shall have successfully passed
43 a physical examination for entry into public service which failed to
44 disclose evidence of the qualifying condition or impairment of health
45 that formed the basis for the disability.

46 (4) The board of trustees shall promulgate rules and regulations
47 necessary to implement the provisions of this subsection and shall

1 notify members and retirants in the retirement system of the enactment
2 of this act, P.L. , c. (pending before the Legislature as this bill),
3 within 30 days of enactment.

4 A member ²or retiree² shall not be eligible for the presumption or
5 recalculation under this subsection unless within two years of the
6 effective date of this act, P.L. , c. (pending before the Legislature
7 as this bill), the member ²or retiree² files a written and sworn
8 statement with the retirement system on a form provided by the board
9 of trustees thereof indicating the dates and locations of service.

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

11
12 ²['12.] 3.² Section 10 of P.L.1965, c. 89 (C.53:5A-10) is
13 amended to read as follows:

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

37 b. Upon retirement for accidental disability, a member shall
38 receive an accidental disability retirement allowance which shall
39 consist of:

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

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

45 c. Upon the receipt of proper proofs of the death of a member
46 who has retired on an accidental disability retirement allowance, there
47 shall be paid to the member's beneficiary, an amount equal to $3\frac{1}{2}$
48 times the final compensation received by the member in the last year

1 of creditable service; provided, however, that if such death shall occur
2 after the member shall have attained 55 years of age the amount
3 payable shall equal 1/2 of such compensation instead of 3 1/2 times
4 such compensation.

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

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

10 “Qualifying condition or impairment of health” includes:

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

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

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

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

24 diseases of the skin such as contact dermatitis or burns, either acute
25 or chronic in nature, infectious, irritant, allergic, idiopathic or non-
26 specific reactive in nature, caused by exposure or aggravated by
27 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 Trade
34 Center site between September 11, 2001 and October 11, 2001.

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

39 (2) Notwithstanding any provision of subsection a. of this section
40 or any other law to the contrary, for a member who participated,
41 whether or not under orders or instruction by an employer to so
42 participate, in World Trade Center rescue, recovery, or cleanup
43 operations for a minimum of eight hours, permanent and total
44 disability resulting from a qualifying condition or impairment of health
45 shall be presumed to have occurred during and as a result of the
46 performance of the member’s regular or assigned duties and not the
47 result of the member’s willful negligence, unless the contrary can be
48 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 for 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 or cleanup operations shall be eligible to apply to the board of trustees
31 to have the ²[member's] retiree's² retirement allowance recalculated
32 as an accidental disability retirement allowance for benefit payments
33 on or after the date of the application, provided the ²[member] retiree²
34 filed an application for such recalculation within 30 days of the date
35 that the ²[member] retiree² knew or should have known of the
36 existence of such disability and its relation to the rescue, recovery, or
37 cleanup operations. In order to be eligible for such recalculation, the
38 ²[member] retiree² shall have successfully passed a physical
39 examination for entry into public service which failed to disclose
40 evidence of the qualifying condition or impairment of health that
41 formed the basis for the disability.
42 (4) The board of trustees shall promulgate rules and regulations
43 necessary to implement the provisions of this subsection and shall
44 notify members and retirants in the retirement system of the enactment
45 of this act, P.L. , c. (pending before the Legislature as this bill),
46 within 30 days of enactment.

1 A member ²or retiree² 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 Legislature
4 as this bill), the member ²or retiree² files a written and sworn
5 statement with the retirement system on a form provided by the board
6 of trustees thereof indicating the dates and locations of service.¹
7 (cf: P.L.1971, c.181, s.8)

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

11 43. a. A member who has not attained age 65 shall, upon the
12 application of the head of the department in which he is employed or
13 upon his own application or the application of one acting in his behalf,
14 be retired by the board of trustees, if said employee is permanently and
15 totally disabled as a direct result of a traumatic event occurring during
16 and as a result of the performance of his regular or assigned duties, on
17 an accidental disability allowance. A traumatic event occurring during
18 voluntary performance of regular or assigned duties at a place of
19 employment before or after required hours of employment which is not
20 in violation of any valid work rule of the employer or otherwise
21 prohibited by the employer shall be deemed as occurring during the
22 performance of regular or assigned duties.

23 The application to accomplish such retirement must be filed within
24 five years of the original traumatic event, but the board of trustees may
25 consider an application filed after the five-year period if it can be
26 factually demonstrated to the satisfaction of the board of trustees that
27 the disability is due to the accident and the filing was not
28 accomplished within the five-year period due to a delayed
29 manifestation of the disability or to circumstances beyond the control
30 of the member.

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

35 Before consideration of the application by the board of trustees, the
36 physician or physicians designated by the board shall have first made a
37 medical examination of the member at his residence or at any other
38 place mutually agreed upon and shall have certified to the board that
39 he is physically or mentally incapacitated for the performance of duty,
40 and should be retired, and the appointing authority shall have certified
41 to the board that the member is permanently and totally disabled as a
42 direct result of a traumatic event occurring during and as a result of the
43 performance of his regular or assigned duties, the time and place
44 where the duty causing the disability was performed, that the disability
45 was not the result of his willful negligence and that the member should
46 be retired.

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

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

5 “Qualifying condition or impairment of health” includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (5) This subsection shall apply only to: any member or retiree who
2 is or was enrolled in the Public Employees' Retirement System
3 because the member or retiree did not meet the age or medical
4 requirements for enrollment in the Police and Firemen's Retirement
5 System on the basis of the position held; and to any emergency
6 medical technician who is a member or retiree of the Public
7 Employees' Retirement System. For the purposes of this paragraph,
8 "emergency medical technician" means a person trained in basic life
9 support services as defined in section 1 of P.L.1985, c.351 (C.26:2K-
10 21) and who is certified by the Department of Health to perform these
11 services.²

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

13

14 ¹[2.] ²[3.¹] 5.² This act shall take effect immediately.