

[Third 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 Budget and Appropriations Committee on June 17, 2019, with amendments.

(Sponsorship Updated As Of: 6/21/2019)

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

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

9
 10 ²1. This act, P.L. , c. , shall be known and may be cited as
 11 "The Bill Ricci World Trade Center Rescue, Recovery, and Cleanup
 12 Operations Act."²

13
 14 ²[1.] 2.² Section 7 of P.L.1944, c.255 (C.43:16A-7) is amended
 15 to read as follows:

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

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

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

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

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.

³Senate SBA committee amendments adopted June 17, 2019.

1 time of the member's retirement, whichever provides the largest
2 possible benefit to the member.

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

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

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

17 “Qualifying condition or impairment of health” includes:

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

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

26 diseases of the gastroesophageal tract, including esophagitis and
27 reflux disease, either acute or chronic, caused by exposure or
28 aggravated by exposure;

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

32 diseases of the skin such as contact dermatitis or burns, either
33 acute or chronic in nature, infectious, irritant, allergic, idiopathic or
34 non-specific reactive in nature, caused by exposure or aggravated
35 by exposure; and

36 new onset diseases resulting from exposure as such diseases
37 occurring in the future including cancer, chronic obstructive
38 pulmonary disease, asbestos-related disease, heavy metal poisoning,
39 musculoskeletal disease and chronic psychological disease.

40 “World Trade Center rescue, recovery, or cleanup operations”
41 means the rescue, recovery, or cleanup operations at the World
42 Trade Center site between September 11, 2001 and October 11,
43 2001.

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

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

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

14 the member participated in the rescue, recovery, or cleanup
15 operations at the World Trade Center site between September 11,
16 2001 and September 12, 2001;

17 the member sustained a documented physical injury at the World
18 Trade Center site between September 11, 2001 and September 12,
19 2001 that is a qualifying condition or impairment of health resulting
20 in a disability to the member that prevented the member from
21 continuing to participate in World Trade Center rescue, recovery, or
22 cleanup operations for a minimum of eight hours; and

23 the documented physical injury that resulted in a disability to the
24 member that prevented the member from continuing to participate
25 in World Trade Center rescue, recovery, or cleanup operations for a
26 minimum of eight hours is the qualifying condition or impairment
27 of health for which the member seeks a presumption under this
28 subsection.

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

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

1 operations. In order to be eligible for such recalculation, the
2 ²[member] retiree² shall have successfully passed a physical
3 examination for entry into public service which failed to disclose
4 evidence of the qualifying condition or impairment of health that
5 formed the basis for the disability.

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

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

18 ³(5) This subsection shall apply regardless of whether the
19 member or retiree, who is otherwise eligible, was enrolled in the
20 retirement system at the time of participation in World Trade Center
21 rescue, recovery, or cleanup operations as specified herein.³

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

23
24 ²[¹2.] ³ Section 10 of P.L.1965, c. 89 (C.53:5A-10) is
25 amended to read as follows:

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

1 concurrence of the Attorney General, or to other circumstances
2 beyond the control of the member.

3 b. Upon retirement for accidental disability, a member shall
4 receive an accidental disability retirement allowance which shall
5 consist of:

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

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

11 c. Upon the receipt of proper proofs of the death of a member
12 who has retired on an accidental disability retirement allowance,
13 there shall be paid to the member's beneficiary, an amount equal to
14 $3\frac{1}{2}$ times the final compensation received by the member in the
15 last year of creditable service; provided, however, that if such death
16 shall occur after the member shall have attained 55 years of age the
17 amount payable shall equal $\frac{1}{2}$ of such compensation instead of 3
18 $\frac{1}{2}$ times such compensation.

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

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

24 “Qualifying condition or impairment of health” includes:

25 diseases of the upper respiratory tract and mucosae, including
26 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
27 laryngitis, vocal cord disease, upper airway hyper-reactivity and
28 tracheo-bronchitis, or a combination of such conditions;

29 diseases of the lower respiratory tract, including but not limited
30 to bronchitis, asthma, reactive airway dysfunction syndrome, and
31 different types of pneumonitis, such as hypersensitivity,
32 granulomatous, or eosinophilic;

33 diseases of the gastroesophageal tract, including esophagitis and
34 reflux disease, either acute or chronic, caused by exposure or
35 aggravated by exposure;

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

39 diseases of the skin such as contact dermatitis or burns, either
40 acute or chronic in nature, infectious, irritant, allergic, idiopathic or
41 non-specific reactive in nature, caused by exposure or aggravated
42 by exposure; and

43 new onset diseases resulting from exposure as such diseases
44 occurring in the future including cancer, chronic obstructive
45 pulmonary disease, asbestos-related disease, heavy metal poisoning,
46 musculoskeletal disease and chronic psychological disease.

47 “World Trade Center rescue, recovery, or cleanup operations”
48 means the rescue, recovery, or cleanup operations at the World

1 Trade Center site between September 11, 2001 and October 11,
2 2001.

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

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

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

20 the member participated in the rescue, recovery, or cleanup
21 operations at the World Trade Center site between September 11,
22 2001 and September 12, 2001;

23 the member sustained a documented physical injury at the World
24 Trade Center site between September 11, 2001 and September 12,
25 2001 that is a qualifying condition or impairment of health resulting
26 in a disability to the member that prevented the member from
27 continuing to participate in World Trade Center rescue, recovery, or
28 cleanup operations for a minimum of eight hours; and

29 the documented physical injury that resulted in a disability to the
30 member that prevented the member from continuing to participate
31 in World Trade Center rescue, recovery, or cleanup operations for a
32 minimum of eight hours is the qualifying condition or impairment
33 of health for which the member seeks a presumption under this
34 subsection.

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

40 (3) A member who participated in the World Trade Center
41 rescue, recovery, or cleanup operations for a minimum of eight
42 hours and subsequently retired on a service retirement or an
43 ordinary disability retirement and thereafter incurred a disability
44 caused by a qualifying condition or impairment of health which the
45 medical board determines to be caused by participation in World
46 Trade Center rescue, recovery, or cleanup operations shall be
47 eligible to apply to the board of trustees to have the ²[member’s]
48 retiree’s² retirement allowance recalculated as an accidental

1 disability retirement allowance for benefit payments on or after the
2 date of the application, provided the ²[member] retiree² filed an
3 application for such recalculation within 30 days of the date that the
4 ²[member] retiree² knew or should have known of the existence of
5 such disability and its relation to the rescue, recovery, or cleanup
6 operations. In order to be eligible for such recalculation, the
7 ²[member] retiree² shall have successfully passed a physical
8 examination for entry into public service which failed to disclose
9 evidence of the qualifying condition or impairment of health that
10 formed the basis for the disability.

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

16 A member ²or retiree² shall not be eligible for the presumption
17 or recalculation under this subsection unless within two years of the
18 effective date of this act, P.L. , c. (pending before the
19 Legislature as this bill), the member ²or retiree² files a written and
20 sworn statement with the retirement system on a form provided by
21 the board of trustees thereof indicating the dates and locations of
22 service.¹

23 ³(5) This subsection shall apply regardless of whether the
24 member or retiree, who is otherwise eligible, was enrolled in the
25 retirement system at the time of participation in World Trade Center
26 rescue, recovery, or cleanup operations as specified herein.³

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

28

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

31 43. a. A member who has not attained age 65 shall, upon the
32 application of the head of the department in which he is employed
33 or upon his own application or the application of one acting in his
34 behalf, be retired by the board of trustees, if said employee is
35 permanently and totally disabled as a direct result of a traumatic
36 event occurring during and as a result of the performance of his
37 regular or assigned duties, on an accidental disability allowance. A
38 traumatic event occurring during voluntary performance of regular
39 or assigned duties at a place of employment before or after required
40 hours of employment which is not in violation of any valid work
41 rule of the employer or otherwise prohibited by the employer shall
42 be deemed as occurring during the performance of regular or
43 assigned duties.

44 The application to accomplish such retirement must be filed
45 within five years of the original traumatic event, but the board of
46 trustees may consider an application filed after the five-year period
47 if it can be factually demonstrated to the satisfaction of the board of

1 trustees that the disability is due to the accident and the filing was
2 not accomplished within the five-year period due to a delayed
3 manifestation of the disability or to circumstances beyond the
4 control of the member.

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

9 Before consideration of the application by the board of trustees,
10 the physician or physicians designated by the board shall have first
11 made a medical examination of the member at his residence or at
12 any other place mutually agreed upon and shall have certified to the
13 board that he is physically or mentally incapacitated for the
14 performance of duty, and should be retired, and the appointing
15 authority shall have certified to the board that the member is
16 permanently and totally disabled as a direct result of a traumatic
17 event occurring during and as a result of the performance of his
18 regular or assigned duties, the time and place where the duty
19 causing the disability was performed, that the disability was not the
20 result of his willful negligence and that the member should be
21 retired.

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

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

26 “Qualifying condition or impairment of health” includes:

27 diseases of the upper respiratory tract and mucosae, including
28 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
29 laryngitis, vocal cord disease, upper airway hyper-reactivity and
30 tracheo-bronchitis, or a combination of such conditions;

31 diseases of the lower respiratory tract, including but not limited
32 to bronchitis, asthma, reactive airway dysfunction syndrome, and
33 different types of pneumonitis, such as hypersensitivity,
34 granulomatous, or eosinophilic;

35 diseases of the gastroesophageal tract, including esophagitis and
36 reflux disease, either acute or chronic, caused by exposure or
37 aggravated by exposure;

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

41 diseases of the skin such as contact dermatitis or burns, either
42 acute or chronic in nature, infectious, irritant, allergic, idiopathic or
43 non-specific reactive in nature, caused by exposure or aggravated
44 by exposure; and

45 new onset diseases resulting from exposure as such diseases
46 occurring in the future including cancer, chronic obstructive
47 pulmonary disease, asbestos-related disease, heavy metal poisoning,
48 musculoskeletal disease and chronic psychological disease.

1 “World Trade Center rescue, recovery, or cleanup operations”
2 means the rescue, recovery, or cleanup operations at the World
3 Trade Center site between September 11, 2001 and October 11,
4 2001.

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

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

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

22 the member participated in the rescue, recovery, or cleanup
23 operations at the World Trade Center site between September 11,
24 2001 and September 12, 2001;

25 the member sustained a documented physical injury at the World
26 Trade Center site between September 11, 2001 and September 12,
27 2001 that is a qualifying condition or impairment of health resulting
28 in a disability to the member that prevented the member from
29 continuing to participate in World Trade Center rescue, recovery, or
30 cleanup operations for a minimum of eight hours; and

31 the documented physical injury that resulted in a disability to the
32 member that prevented the member from continuing to participate
33 in World Trade Center rescue, recovery, or cleanup operations for a
34 minimum of eight hours is the qualifying condition or impairment
35 of health for which the member seeks a presumption under this
36 subsection.

37 In order to be eligible for the presumption provided under this
38 subsection, a member 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 permanent and total disability.

42 (3) A member who participated in the World Trade Center
43 rescue, recovery, or cleanup operations for a minimum of eight
44 hours and subsequently retired on a service retirement or an
45 ordinary disability retirement and thereafter incurred a disability
46 caused by a qualifying condition or impairment of health which the
47 medical board determines to be caused by participation in World
48 Trade Center rescue, recovery, or cleanup operations shall be

1 eligible to apply to the board of trustees to have the retiree's
2 retirement allowance recalculated as an accidental disability
3 retirement allowance for benefit payments on or after the date of the
4 application, provided the retiree filed an application for such
5 recalculation within 30 days of the date that the retiree knew or
6 should have known of the existence of such disability and its
7 relation to the rescue, recovery, or cleanup operations. In order to
8 be eligible for such recalculation, the retiree shall have successfully
9 passed a physical examination for entry into public service which
10 failed to disclose evidence of the qualifying condition or
11 impairment of health that formed the basis for the disability.

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

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

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

35 ³(6) This subsection shall apply regardless of whether the
36 member or retiree, who is otherwise eligible, was enrolled in the
37 retirement system at the time of participation in World Trade Center
38 rescue, recovery, or cleanup operations as specified herein.³

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

40

41 ¹~~[2.]~~ ²~~[3.]~~ ¹ 5.² This act shall take effect immediately.