

**CHAPTER 77**  
**(CORRECTED COPY)**

**AN ACT** concerning accidental disability benefits from the State-administered retirement systems and amending various parts of the statutory law.

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

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

C.53:5A-10 Accidental disability retirement allowance; definitions.

10. a. Upon the written application by a member in service, by one acting in his behalf or by the State, any member may be retired, not less than 1 month next following the date of filing such application, 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 duties in the Division of State Police which the Superintendent of State Police is willing to assign to him.

A member with a preexisting and asymptomatic condition that is rendered symptomatic as a direct result of a traumatic event occurring during and as a result of the performance of the member's regular or assigned duties may be eligible for an accidental disability retirement allowance, provided that the traumatic event is caused by a circumstance external to the member and is the substantial contributing cause of the member's permanent and total disability.

The application to accomplish such retirement must be filed within 5 years of the original traumatic event, but the board of trustees may consider an application filed after the 5-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 5-year period due to a delayed manifestation of the disability or to the member's continued employment in a restricted capacity consistent with the nature of his disability in the Division of the State Police upon and at the written request of the superintendent, with the concurrence of the Attorney General, or to other circumstances beyond the control of the member.

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

- (1) An annuity which shall be the actuarial equivalent of his aggregate contributions and
- (2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of  $\frac{2}{3}$  of his final compensation.

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

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

e. (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 gastroesophageal 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, 2001.

"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 that prevented 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 continuing to participate 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 for 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 retiree's retirement allowance recalculated as an accidental disability retirement allowance for benefit payments on or after the date of the application, provided the retiree filed an application for such recalculation within 30 days of the date that the retiree 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 retiree 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 retirants in the retirement system of the enactment of this act, P.L.2019, c.157, within 30 days of enactment.

A member or retiree 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.2019, c.157, the member or retiree 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.

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

C.53:5A-10.2 Denied member, accidental disability retirement allowance, reconsideration.

2. a. A member who was denied an accidental disability retirement allowance between January 1, 2012 and December 31, 2019 solely on the basis that the Board of Trustees determined that the member had a preexisting and asymptomatic condition may apply to the Board of Trustees for reconsideration. Applications for reconsideration pursuant to this section shall be filed within 30 days of the effective date of P.L.2022, c.77 (C.53:5A-10.2 et al.) and such applications shall not be subject to the five-year filing period so long as the initial application for an accidental disability retirement was timely filed.

b. Upon approval of an application for reconsideration, the member shall prospectively receive the benefit payments of an accidental disability retirement allowance. The benefit payments shall apply only for payments made after approval of an application for reconsideration by the Board of Trustees pursuant to this section. No member shall be granted a retroactive payment based upon the difference between the benefit the person would have received if an accidental disability retirement allowance were granted at the time of the member's initial application and the benefit that the member has received from that date to the approval of the application for reconsideration.

3. This act shall take effect immediately.

Approved July 29, 2022.