

STATE OF NEW YORK

4084

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to providing accidental disability retirement benefits for fire protection specialists

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The retirement and social security law is amended by adding
2 a new section 605-f to read as follows:

3 § 605-f. Accidental disability retirement for fire protection special-
4 ists. a. A member employed as a fire protection specialist I, fire
5 protection specialist II or fire protection specialist III shall be
6 entitled to an accidental disability retirement allowance if, at the
7 time application therefor is filed, such member is:

8 1. Physically or mentally incapacitated for performance of duty as the
9 natural and proximate result of an accident, unless the contrary be
10 proved by competent evidence, not caused by his or her own willful
11 negligence, sustained in such service and while actually a member of the
12 retirement system; and

13 2. Actually in service upon which his or her membership is based.
14 However, in a case where a member is discontinued from service subse-
15 quent to the accident, either voluntarily or involuntarily, and provided
16 that the member meets the requirements of paragraph one of this subdivi-
17 sion, application may be made not later than two years after the member
18 is first discontinued from service.

19 b. Application for an accidental disability retirement allowance for
20 such a member may be made by:

21 1. Such member; or

22 2. The head of the department in which such member is employed; or

23 3. Any person acting on behalf of and authorized by such member.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 c. 1. After the filing of such an application, such member shall be
2 given one or more medical examinations. No such application shall be
3 approved, however, unless the member or some other person on his or her
4 behalf shall have filed written notice in the office of the comptroller
5 within ninety days after the accident, setting forth:

6 (a) The time when and the place where such accident occurred; and

7 (b) The particulars thereof; and

8 (c) The nature and extent of the member's injuries; and

9 (d) His or her alleged incapacity.

10 2. The notice herein required need not be given:

11 (a) If the notice of such accident shall be filed in accordance with
12 the provisions of the workers' compensation law of any state within
13 which a participating employer in New York State shall have its employ-
14 ees located or performing functions and duties within the normal scope
15 of their employment; or

16 (b) If the application for accidental disability retirement is filed
17 within one year after the date of such accident; or

18 (c) If a failure to file notice has been excused for good cause shown
19 as provided by rules and regulations promulgated by the comptroller.

20 d. If the comptroller determines that the member is physically or
21 mentally incapacitated for the performance of duty and ought to be
22 retired for accidental disability, such member shall be so retired. Such
23 retirement shall be effective as of a date approved by the comptroller.

24 e. The annual retirement allowance payable upon accidental disability
25 retirement shall be a pension of three-quarters of his or her final
26 average salary. The payment of such pension shall be subject to the
27 provisions of section sixty-four of this chapter.

28 f. If the member, at the time of the filing of an application under
29 the provisions of subdivision b of this section, is eligible for a
30 service retirement benefit, then and in that event, he or she may simul-
31 taneously file an application for service retirement in accordance with
32 the provisions of section seventy of this chapter, provided that the
33 member indicates on the application for service retirement that such
34 application is filed without prejudice to the application for accidental
35 disability retirement.

36 g. Notwithstanding any other provision of law, this section shall
37 apply to fire protection specialists I, fire protection specialists II
38 and fire protection specialists III who were hired on or after July
39 twenty-seventh, nineteen hundred seventy-six.

40 § 2. This act shall take effect immediately.