S T A T E O F N E W Y O R K

7796

2009-2010 Regular Sessions

I N A S S E M B L Y

April 24, 2009

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

AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employees' retirement system

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2 of section 363-a of the retirement and social security law, as amended by chapter 967 of the laws of 1974, is amended to read as follows:

2. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a policeman, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that [is] IT was incurred in the performance and discharge of duty AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT, unless the contrary be proved by competent evidence.

S 2. The retirement and social security law is amended by adding a new section 809 to read as follows:

S 809. EFFECT AND REBUTTAL OF CERTAIN MEDICAL PRESUMPTIONS PERTAINING TO DISEASES OF THE HEART. A. THIS SECTION SHALL APPLY TO CERTAIN APPLICATIONS FOR DISABILITY RETIREMENT ALLOWANCES MADE BY OR ON BEHALF OF A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM. IT SHALL APPLY ONLY TO APPLICATIONS THAT ARE SUBJECT UNDER THIS CHAPTER TO A PROVISION THAT ANY CONDITION OF IMPAIRMENT OF HEALTH CAUSED BY A DISEASE OF THE HEART, RESULTING IN DISABILITY, SHALL BE PRESUMPTIVE EVIDENCE THAT SUCH DISABILITY WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT.

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

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B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY AN APPLICATION FOR AN ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE THAT IS BASED ON A PERMANENT INCAPACITY CAUSED BY A DISEASE OF THE HEART, SHALL NOT BE REQUIRED TO ALLEGE OR ESTABLISH:

(1) THAT THE MEMBER SUSTAINED AN ACCIDENT OR OTHER INCIDENT RELATED TO THE PERFORMANCE AND DISCHARGE OF DUTY; OR

(2) THAT NOTICE WAS PROVIDED THEREOF.

C. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE PRESUMPTIONS REFERRED TO IN SUBDIVISION A OF THIS SECTION MAY BE REBUTTED ONLY BY COMPETENT EVIDENCE THAT THE DISABILITY IS NOT THE NATURAL AND PROXIMATE RESULT OF THE PERFORMANCE AND DISCHARGE OF DUTY.

S 3. The amendment made to subdivision 2 of section 363-a of the retirement and social security law by section one of this act shall not affect, impair or invalidate any temporary right, privilege or benefit conferred pursuant to the provisions of a general, special or local law (other than pursuant to articles 14 and 15 of the retirement and social security law) for any member of a public retirement system or pension plan funded by the state or one of its political subdivisions, nor shall any amendment thereto affect the application of such provisions as extended by the provisions of section 480 of the retirement and social security law.

S 4. This act shall take effect immediately.