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

5759--A

2013-2014 Regular Sessions

I N S E N A T E

June 12, 2013

Introduced by Sens. GOLDEN, LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, the education law, the retirement and social security law and the workers' compensation law, in relation to injuries or illnesses suffered as a result of participation in rescue, recovery and cleanup directly related to the attacks at the World Trade Center on September 11, 2001

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

Section 1. Subdivision c of section 13-551 of the administrative code of the city of New York is amended and three new subdivisions f, g and h are added to read as follows:

c. Any such application shall be filed within two years after the happening of such accident EXCEPT IF FILED BY A VESTED MEMBER INCAPACITATED AS A RESULT OF A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW.

F. (1)(A) NOTWITHSTANDING ANY PROVISIONS OF THIS CODE OR OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER OR RULE OR REGULATION TO THE CONTRARY, IF ANY CONDITION OR IMPAIRMENT OF HEALTH IS CAUSED BY A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, IT SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.

(B) THE RETIREMENT BOARD IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH.

(2) (A) NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER OR OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR REGULATION TO THE CONTRARY, IF A MEMBER WHO PARTICIPATED IN WORLD TRADE

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

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CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND SUBSEQUENTLY RETIRED ON A SERVICE RETIREMENT, AN ORDINARY DISABILITY RETIREMENT, AN ACCIDENTAL DISABILITY RETIREMENT, A PERFORMANCE OF DUTY DISABILITY RETIREMENT, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE AND SUBSEQUENT TO SUCH RETIREMENT OR SEPARATION IS DETERMINED BY THE HEAD OF THE RETIREMENT SYSTEM TO HAVE A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, UPON SUCH DETERMINATION BY THE RETIREMENT BOARD, IT SHALL BE PRESUMED THAT SUCH DISABILITY WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, AND THAT THE MEMBER WOULD HAVE BEEN PHYSICALLY OR MENTALLY INCAPACITATED FOR THE PERFORMANCE AND DISCHARGE OF DUTY OF THE POSITION FROM WHICH HE OR SHE RETIRED OR VESTED HAD THE CONDITION BEEN KNOWN AND FULLY DEVELOPED AT THE TIME OF THE MEMBER'S RETIREMENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS, UNLESS THE CONTRARY IS PROVEN BY COMPETENT EVIDENCE.

(B) THE RETIREMENT BOARD SHALL CONSIDER A RECLASSIFICATION OF THE MEMBER'S RETIREMENT OR VESTING AS AN ACCIDENTAL DISABILITY RETIREMENT EFFECTIVE AS OF THE DATE OF SUCH RECLASSIFICATION.

(C) SUCH MEMBER'S RETIREMENT OPTION SHALL NOT BE CHANGED AS A RESULT OF SUCH RECLASSIFICATION.

(D) THE MEMBER'S FORMER EMPLOYER AT THE TIME OF THE MEMBER'S RETIREMENT SHALL HAVE AN OPPORTUNITY TO BE HEARD ON THE MEMBER'S APPLICATION FOR RECLASSIFICATION BY THE RETIREMENT BOARD ACCORDING TO PROCEDURES DEVELOPED BY THE RETIREMENT BOARD.

(E) THE RETIREMENT BOARD IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH.

G. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR REGULATION TO THE CONTRARY, IF A RETIREE OR VESTEE WHO: (1) HAS MET THE CRITERIA OF SUBDIVISION F OF THIS SECTION AND RETIRED ON A SERVICE OR DISABILITY RETIREMENT, WOULD HAVE MET THE CRITERIA IF NOT ALREADY RETIRED ON AN ACCIDENTAL DISABILITY, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; AND (2) HAS NOT BEEN RETIRED FOR MORE THAN TWENTY-FIVE YEARS; AND (3) DIES FROM A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH RETIREE OR VESTEE SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH RETIREE'S OR VESTEE'S ELIGIBLE BENEFICIARY, AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT AS PROVIDED BY SECTION 13-544 OF THIS CHAPTER, HOWEVER, FOR THE PURPOSES OF DETERMINING THE SALARY BASE UPON WHICH THE ACCIDENTAL DEATH BENEFIT IS CALCULATED, THE RETIREE OR VESTEE SHALL BE DEEMED TO HAVE DIED ON THE DATE OF HIS OR HER RETIREMENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. UPON THE RETIREE'S OR VESTEE'S DEATH, THE ELIGIBLE BENEFICIARY SHALL MAKE A WRITTEN APPLICATION TO THE HEAD OF THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN ACCIDENTAL DEATH BENEFIT AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER REQUESTING CONVERSION OF SUCH RETIREE'S SERVICE, VESTED RIGHT OR DISABILITY RETIREMENT BENEFIT TO AN ACCIDENTAL DEATH BENEFIT. AT THE TIME OF SUCH CONVERSION, THE ELIGIBLE BENEFICIARY SHALL RELINQUISH ALL RIGHTS TO THE PROSPECTIVE BENEFITS PAYABLE UNDER THE

SERVICE OR DISABILITY RETIREMENT BENEFIT, OR VESTED RIGHT TO SUCH BENEFIT, INCLUDING ANY POST-RETIREMENT DEATH BENEFITS, SINCE THE RETIREE'S OR VESTEE'S DEATH. IF THE ELIGIBLE BENEFICIARY IS NOT THE ONLY BENEFICIARY RECEIVING OR ENTITLED TO RECEIVE A BENEFIT UNDER THE SERVICE OR DISABILITY RETIREMENT BENEFIT (INCLUDING, BUT NOT LIMITED TO, POST-RETIREMENT DEATH BENEFITS OR BENEFITS PAID OR PAYABLE PURSUANT TO THE RETIREE'S OPTION SELECTION), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT, THE ACCIDENTAL DEATH BENEFIT PAYMENTS TO THE ELIGIBLE BENEFICIARY WILL BE REDUCED BY ANY AMOUNTS PAID OR PAYABLE TO ANY OTHER BENEFICIARY.

H. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CODE OR OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER, OR RULE OR REGULATION TO THE CONTRARY, IF A MEMBER WHO: (1) HAS MET THE CRITERIA OF SUBDIVISION F OF THIS SECTION; (2) DIES IN ACTIVE SERVICE OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES FROM A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH MEMBER SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH MEMBER'S ELIGIBLE BENEFICIARY, AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT PROVIDED HE OR SHE MAKES WRITTEN APPLICATION TO THE HEAD OF THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN ACCIDENTAL DEATH BENEFIT AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER.

S 2. Subdivision 25 of section 2575 of the education law is amended by adding four new paragraphs (c), (d), (e) and (f) to read as follows:

(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED TO BE AMENDED TO PROVIDE THAT ANY REQUIREMENT THAT APPLICATIONS FOR ACCIDENTAL DISABILITY BE FILED WITHIN A LIMITED TIME PERIOD AFTER THE HAPPENING OF SUCH ACCIDENT SHALL NOT APPLY TO A VESTED MEMBER INCAPACITATED AS A RESULT OF A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW.

(D)(1)(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED TO BE AMENDED TO PROVIDE THAT IF ANY CONDITION OR IMPAIRMENT OF HEALTH IS CAUSED BY A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, IT SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.

(II) THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH.

(2)(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED TO BE AMENDED TO PROVIDE THAT IF A MEMBER WHO PARTICIPATED IN WORLD TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND SUBSEQUENTLY RETIRED ON A SERVICE RETIREMENT, AN ORDINARY DISABILITY RETIREMENT, AN ACCIDENTAL DISABILITY RETIREMENT, A PERFORMANCE OF DUTY DISABILITY RETIREMENT, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE AND SUBSEQUENT TO SUCH

RETIREMENT OR SEPARATION IS DETERMINED BY THE HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD TO HAVE A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, UPON SUCH DETERMINATION BY THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD OR APPLICABLE MEDICAL BOARD, IT SHALL BE PRESUMED THAT SUCH DISABILITY WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, AND THAT THE MEMBER WOULD HAVE BEEN PHYSICALLY OR MENTALLY INCAPACITATED FOR THE PERFORMANCE AND DISCHARGE OF DUTY OF THE POSITION FROM WHICH HE OR SHE RETIRED OR VESTED HAD THE CONDITION BEEN KNOWN AND FULLY DEVELOPED AT THE TIME OF THE MEMBER'S RETIREMENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS, UNLESS THE CONTRARY IS PROVEN BY COMPETENT EVIDENCE.

(II) THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD SHALL CONSIDER A RECLASSIFICATION OF THE MEMBER'S RETIREMENT OR VESTING AS AN ACCIDENTAL DISABILITY RETIREMENT EFFECTIVE AS OF THE DATE OF SUCH RECLASSIFICATION.

(III) SUCH MEMBER'S RETIREMENT OPTION SHALL NOT BE CHANGED AS A RESULT OF SUCH RECLASSIFICATION.

(IV) THE MEMBER'S FORMER EMPLOYER AT THE TIME OF THE MEMBER'S RETIREMENT SHALL HAVE AN OPPORTUNITY TO BE HEARD ON THE MEMBER'S APPLICATION FOR RECLASSIFICATION BY THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD ACCORDING TO PROCEDURES DEVELOPED BY THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD.

(V) THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH.

(E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED TO BE AMENDED TO PROVIDE THAT IF A RETIREE OR VESTEE WHO: (1) HAS MET THE CRITERIA OF PARAGRAPH (D) OF THIS SUBDIVISION AND RETIRED ON A SERVICE OR DISABILITY RETIREMENT, WOULD HAVE MET THE CRITERIA IF NOT ALREADY RETIRED ON AN ACCIDENTAL DISABILITY, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; AND (2) HAS NOT BEEN RETIRED FOR MORE THAN TWENTY-FIVE YEARS; AND (3) DIES FROM A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH RETIREE OR VESTEE SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH RETIREE'S OR VESTEE'S ELIGIBLE BENEFICIARY, AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATION, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT AS PROVIDED BY TITLE TWENTY-ONE OF THE RULES AND REGULATIONS, HOWEVER, FOR THE PURPOSES OF DETERMINING THE SALARY BASE UPON WHICH THE ACCIDENTAL DEATH BENEFIT IS CALCULATED, THE RETIREE OR VESTEE SHALL BE DEEMED TO HAVE DIED ON THE DATE OF HIS OR HER RETIREMENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. UPON THE RETIREE'S OR VESTEE'S DEATH, THE ELIGIBLE BENEFICIARY SHALL MAKE A WRITTEN APPLICATION TO THE HEAD OF THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN ACCIDENTAL DEATH BENEFIT AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATIONS REQUESTING CONVERSION OF SUCH RETIREE'S SERVICE, VESTED RIGHT OR DISABILITY RETIREMENT BENEFIT TO AN ACCIDENTAL DEATH BENEFIT. AT THE TIME OF SUCH CONVERSION, THE ELIGIBLE BENEFICIARY SHALL RELINQUISH ALL RIGHTS TO THE PROSPECTIVE BENEFITS PAYABLE UNDER THE SERVICE

OR DISABILITY RETIREMENT BENEFIT, OR VESTED RIGHT TO SUCH BENEFIT, INCLUDING ANY POST-RETIREMENT DEATH BENEFITS, SINCE THE RETIREE'S OR VESTEE'S DEATH. IF THE ELIGIBLE BENEFICIARY IS NOT THE ONLY BENEFICIARY RECEIVING OR ENTITLED TO RECEIVE A BENEFIT UNDER THE SERVICE OR DISABILITY RETIREMENT BENEFIT (INCLUDING, BUT NOT LIMITED TO, POST-RETIREMENT DEATH BENEFITS OR BENEFITS PAID OR PAYABLE PURSUANT TO THE RETIREE'S OPTION SELECTION), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT THE ACCIDENTAL DEATH BENEFIT PAYMENTS TO THE ELIGIBLE BENEFICIARY WILL BE REDUCED BY ANY AMOUNTS PAID OR PAYABLE TO ANY OTHER BENEFICIARY.

(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED TO BE AMENDED TO PROVIDE THAT IF A MEMBER WHO: (1) HAS MET THE CRITERIA OF PARAGRAPH (D) OF THIS SUBDIVISION; (2) DIES IN ACTIVE SERVICE OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES FROM A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH MEMBER SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH MEMBER'S ELIGIBLE BENEFICIARY, AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATIONS SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT PROVIDED HE OR SHE MAKES WRITTEN APPLICATION TO THE HEAD OF THE RETIREMENT SYSTEM AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATIONS.

S 3. Subparagraph (b) of paragraph 5 of subdivision b and subdivisions c and d of section 13-168 of the administrative code of the city of New York, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

(b) (1) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of the retirement and social security law, and subsequently retired on a service retirement, an ordinary disability retirement, an accidental disability retirement, [or] a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION is determined by the board of trustees to have a qualifying World Trade Center condition as defined by section two of the retirement and social security law, upon such determination by the NYCERS board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired OR VESTED had the condition been known and fully developed at the time of the member's retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proven by competent evidence.

(2) The NYCERS board of trustees shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(3) Such member's retirement option shall not be changed as a result of such reclassification.

(4) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCERS board of trustees according to procedures developed by the retirement system.

c. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision b of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth in section 13-149 of this chapter, shall be entitled to an accidental death benefit as provided by section 13-149 of this chapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-149 of this chapter requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT, the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

d. Notwithstanding any other provision of this code or of any general, special or local law, charter, or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision b of this section; [and] (2) dies in active service OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section 13-149 of this chapter, shall be entitled to an accidental death

benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-149 of this chapter.

S 4. Subdivisions 2, 3 and 4 of section 13-252.1 of the administrative code of the city of New York, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of the retirement and social security law, and subsequently retired on a service retirement, an ordinary disability retirement, an accidental disability retirement, [or] a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION is determined by the [NYCFDPF] NYCPPF board of trustees to have a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, upon such determination by the [NYCFDPF] NYCPPF board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired OR VESTED had the condition been known and fully developed at the time of the member's retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proven by competent evidence.

(b) The NYCPPF board of trustees shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCPPF board of trustees according to procedures developed by the NYCPPF board of trustees.

(e) The NYCPPF board of trustees is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

3. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision one of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth in section 13-244 of this subchapter, shall be entitled to an accidental death benefit as provided by section 13-244 of this subchapter, however, for the purposes of determining the

salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-244 of this subchapter requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT, the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

4. Notwithstanding any other provision of this code or of any general, special or local law, charter, or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision one of this section; [and] (2) dies in active service OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of the retirement and social security law, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section 13-244 of this subchapter, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-244 of this subchapter.

S 5. Subdivisions 2, 3 and 4 of section 13-353.1 of the administrative code of the city of New York, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of the retirement and social security law, and subsequently retired on a service retirement, an ordinary disability retirement, an accidental disability retirement, [or] a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, upon such determination by the NYCFDPF board of trustees, it shall be presumed that such disability was

incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired OR VESTED had the condition been known and fully developed at the time of the member's retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proven by competent evidence.

(b) The NYCFDPF shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCFDPF board of trustees according to procedures developed by the NYCFDPF.

(e) The NYCFDPF board of trustees is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

3. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision one of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth in section 13-347 of this subchapter, shall be entitled to an accidental death benefit as provided by sections 13-347 and 13-348 of this subchapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in sections 13-347 and 13-348 of this subchapter requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT the accidental death bene-

fit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

4. Notwithstanding any other provision of this code or of any general, special or local law, charter, or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision one of this section; [and] (2) dies in active service OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section 13-347 of this subchapter, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-347 of this subchapter.

S 6. Paragraph 2 of subdivision c and subdivisions d and e of section 507-c of the retirement and social security law, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement [or], a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION which is determined by the head of the retirement system to have been a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired OR VESTED had the condition been known and fully developed at the time of the member's retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proved by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system according to procedures developed by the head of the retirement system.

(e) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade center condition, as defined in section two of this chapter, that is determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision c of this section; [and] (2) dies in active service OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

S 7. Paragraph 2 of subdivision d and subdivisions e and f of section 605-b of the retirement and social security law, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement [or], a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION which is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system according to procedures developed by the head of the retirement system.

(e) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision d of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written applica-

tion to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's OR VESTEE'S service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT, the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

f. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision d of this section; [and] (2) dies in active service OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

S 8. Paragraph 2 of subdivision b and subdivisions c and d of section 605-c of the retirement and social security law, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement [or], a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION is determined by the head of the retirement system to have a qualifying World Trade Center condition as defined in section two of this chapter, upon such determination by the head of the retirement system, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully

developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system according to procedures developed by the comptroller.

(e) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

c. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision b of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT, the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision b of this section; [and] (2) dies in active service OR AFTER

SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

S 9. Paragraph 2 of subdivision c and subdivisions d and e of section 607-b of the retirement and social security law, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement [or], a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, and subsequent to such retirement OR SEPARATION is determined by the comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCERS board of trustees according to procedures developed by the NYCERS board of trustees.

(e) The head of each retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH

A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT, the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision c of this section; [and] (2) dies in active service OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [subparagraph (d) of paragraph one of subdivision c of this section] SECTION TWO OF THIS CHAPTER, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

S 10. Subdivision 3 of section 161 of the workers' compensation law, as added by chapter 446 of the laws of 2006, is amended to read as follows:

3. "Qualifying condition" means any [latent disease or condition] OF THE FOLLOWING DISEASES OR CONDITIONS resulting from a hazardous exposure during participation in World Trade Center rescue, recovery or clean-up operations:

(A) 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;

(B) 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;

(C) DISEASES OF THE GASTROESOPHAGEAL TRACT, INCLUDING ESOPHAGITIS AND REFLUX DISEASE, EITHER ACUTE OR CHRONIC, CAUSED BY EXPOSURE OR AGGRAVATED BY EXPOSURE;

(D) DISEASES OF THE PSYCHOLOGICAL AXIS, INCLUDING POST-TRAUMATIC STRESS DISORDER, ANXIETY, DEPRESSION, OR ANY COMBINATION OF SUCH CONDITIONS; OR

(E) NEW ONSET DISEASES RESULTING FROM EXPOSURE AS SUCH DISEASES OCCUR IN THE FUTURE INCLUDING CANCER, CHRONIC OBSTRUCTIVE PULMONARY DISEASE, ASBESTOS-RELATED DISEASE, HEAVY METAL POISONING, MUSCULOSKELETAL DISEASE AND CHRONIC PSYCHOLOGICAL DISEASE.

S 11. Section 162 of the workers' compensation law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

S 162. Registration of participation in World Trade Center rescue, recovery and clean-up operations. In order for the claim of a participant in World Trade Center rescue, recovery and clean-up operations to come within the application of this article, such participant must file a written and sworn statement with the board on a form promulgated by the chair indicating the dates and locations of such participation and the name of such participant's employer during the period of participation. Such statement must be filed not later than September eleventh, two thousand [ten] FOURTEEN. The board shall transmit a copy of such statement to the employer or carrier named therein. The filing of such a statement shall not be considered the filing of a claim for benefits under this chapter.

S 12. Section 165 of the workers' compensation law, as added by chapter 446 of the laws of 2006, is amended to read as follows:

S 165. Reopening of disallowed claims. The board, upon receiving a statement duly filed as required under section one hundred sixty-two of this article, from a participant in World Trade Center rescue, recovery and clean-up operations for a qualifying condition that was disallowed as barred by section eighteen or section twenty-eight of this chapter OR BY SECTION ONE HUNDRED SIXTY-TWO OF THIS ARTICLE FOR FAILURE TO REGISTER TIMELY shall reopen and redetermine such claim in accordance with the provisions of this article, provided that no such previously disallowed claim for a qualifying condition shall be determined to have a date of disablement that would bar the claim under section eighteen or section twenty-eight of this chapter.

S 13. Section 168 of the workers' compensation law, as added by chapter 489 of the laws of 2008, is amended to read as follows:

S 168. Additional period for filing certain claims. 1. A claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand three, and September eleventh, two thousand eight, shall not be disallowed as barred by section eighteen or section twenty-eight of this

chapter if such claim is filed on or before September eleven, two thousand ten. Any such claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand three, and September eleventh, two thousand eight, and was disallowed by section eighteen or twenty-eight of this chapter shall be reconsidered by the board.

2. A CLAIM BY A PARTICIPANT IN THE WORLD TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS WHOSE DISABLEMENT OCCURRED BETWEEN SEPTEMBER TWELFTH, TWO THOUSAND EIGHT, AND SEPTEMBER ELEVENTH, TWO THOUSAND TWELVE, SHALL NOT BE DISALLOWED AS BARRED BY SECTION EIGHTEEN OR SECTION TWENTY-EIGHT OF THIS CHAPTER IF SUCH CLAIM IS FILED ON OR BEFORE SEPTEMBER ELEVENTH, TWO THOUSAND FOURTEEN. ANY SUCH CLAIM BY A PARTICIPANT IN THE WORLD TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS WHOSE DISABLEMENT OCCURRED BETWEEN SEPTEMBER ELEVENTH, TWO THOUSAND EIGHT, AND SEPTEMBER ELEVENTH, TWO THOUSAND TWELVE, AND WAS DISALLOWED BY SECTION EIGHTEEN OR TWENTY-EIGHT OF THIS CHAPTER SHALL BE RECONSIDERED BY THE BOARD.

S 14. Paragraph (a) of subdivision 36 of section 2 of the retirement and social security law, as added by chapter 489 of the laws of 2008, is amended to read as follows:

(a) "Qualifying World Trade Center condition" shall mean a qualifying condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period, as those terms are defined below, provided the following conditions have been met: (i) such member, or eligible beneficiary in the case of the member's death, must have filed a written and sworn statement with the member's retirement system on a form provided by such system indicating the underlying dates and locations of employment not later than September eleventh, two thousand ten, OR ANY LATER DATE AS HEREINAFTER PROVIDED IN THIS PARAGRAPH; and (ii) such member has either successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if the member did not undergo a physical examination for entry into public service; and (iii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to September eleventh, two thousand one. THE DEADLINE FOR FILING A WRITTEN AND SWORN STATEMENT REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH IS HEREBY EXTENDED TO SEPTEMBER ELEVENTH, TWO THOUSAND FOURTEEN FOR SUCH MEMBER, OR ELIGIBLE BENEFICIARY IN THE CASE OF THE MEMBER'S DEATH, OF A LOCAL RETIREMENT SYSTEM OF A CITY WITH A POPULATION OF ONE MILLION OR MORE THAT IS COVERED BY SECTION 13-551 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, OR BY SECTION TWENTY-FIVE HUNDRED SEVENTY-FIVE OF THE EDUCATION LAW AND FOR SUCH MEMBER WHO SEPARATED FROM SERVICE WITH VESTED RIGHTS, OR ELIGIBLE BENEFICIARY OF SUCH MEMBER WHO SEPARATED FROM SERVICE WITH VESTED RIGHTS IN THE CASE OF THE MEMBER'S DEATH, OF LOCAL RETIREMENT SYSTEMS OF A CITY WITH A POPULATION OF ONE MILLION OR MORE WHO ARE COVERED BY SECTIONS 13-168, 13-252.1 AND 13-353.1 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK AND SECTIONS FIVE HUNDRED SEVEN-C, SIX HUNDRED FIVE-B, SIX HUNDRED FIVE-C, AND SIX HUNDRED SEVEN-B OF THIS CHAPTER. EVERY RETIREMENT SYSTEM SHALL KEEP A COPY OF EVERY WRITTEN AND SWORN STATEMENT THAT IS PRESENTED FOR FILING NOT LATER THAN SEPTEMBER ELEVENTH, TWO THOUSAND FOURTEEN, INCLUDING THOSE THAT ARE REJECTED FOR FILING AS UNTIMELY.

S 15. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after September 11, 2001; provided, however, that the amendments to sections 161, 162, 165 and 168 of the workers' compensation law made by sections ten, eleven, twelve and thirteen of this act, respectively, shall apply to all open and closed claims coming within its purview.

FISCAL NOTE.-- Pursuant to Legislative Law, Section 50:

PROVISIONS OF PROPOSED LEGISLATION: With respect the the New York city Retirement Systems ("NYCRS"), the proposed legislation would amend Administrative Code of the City of New York ("ACNY") Sections 13-551, 13-168, 13-525.1 and 13-353.1, Education Law Section 2575, Retirement and Social Security Law ("RSSL") Sections 2, 507-c, 605-b, 605-c and 607-b, and Workers' Compensation Law Sections 161,162, 165 and 168 to extend the provisions of the World Trade Center ("WTC") Disability Law to certain members who participated in the Rescue, Recovery or Clean-up operations related to the WTC attack on September 11, 2001 and expand certain provisions of the Workers' Compensation Law relating to the deadline for filing a registration of participation in the WTC Rescue, Recovery or Clean-up operations, the additional period for filing certain WTC-related claims and the reconsideration of certain disallowed WTC-related claims.

The NYCRS include: New York City Employees' Retirement System ("NYCERS"), New York City Teachers' Retirement System ("NYCTRS"), New York City Board of Education Retirement System ("BERS"), New York City Police Pension Fund ("POLICE") and New York Fire Department Pension Fund ("FIRE").

The WTC Disability Law was enacted under Chapter 104 of the Laws of 2005, and was amended by Chapter 93 of the laws of 2005, Chapter 102 of the Laws of 2006, Chapter 444 of the Laws of 2006, Chapter 445 of the Laws of 2006, Chapter 5 of the Laws of 2007, Chapter 214 of the Laws of 2007, Chapter 495 of the Laws of 2007, Chapter 489 of the Laws of 2008 and Chapter 361 of the Laws of 2010.

The Effective Date of this proposed Legislation would be retroactive to September 11, 2001.

BENEFITS UNDER EXISTING WTC-RELATED PROVISIONS

ACCIDENTAL DISABILITY RETIREMENT BENEFITS

With respect to the NYCRS, under current law, active, retired and vested groups covered by the WTC Disability Law could potentially be eligible for WTC-related benefits ("WTC Potential Recipients").

If an active, retired or vested WTC Potential Recipient becomes partially or totally disabled due to a WTC-Related Malady, such condition or impairment of health incurred by the member would be considered presumptive evidence that it was sustained in the line-of-duty as the result of an accident unless the contrary can be proven by competent evidence.

Once such member's application is approved by the respective NYCRS Medical Board and the respective NYCRS Board of Trustees ("BOT"), then such member would be entitled to the applicable Accidental Disability Retirement ("ADR") Benefit ("ACCDIS") that is payable for a member in such NYCRS at such tier and based upon a respective job title, if applicable. Such ACCDIS are generally subject to the offset from any Workers' Compensation benefits payable.

Under current law, if an active WTC Potential Recipient who retires initially for Service Retirement ("SERV"), Ordinary Disability Retirement ("ODR"), Accidental Disability Retirement ("ADR") or Performance of Duty Disability Retirement ("PODR") becomes partially or totally disa-

bled due to a WTC-Related Malady, then such WTC-Related Malady would be considered presumptive evidence that it was incurred in the line-of-duty as the result of an accident.

Such retiree would be permitted to apply with the respective NYCRS for a reclassification of his retirement to a World Trade Center Accidental Disability Retirement ("WTC-ADR"). Upon the approval of the respective NYCRS Medical Board and the respective NYCRS BOT, such retiree would be entitled to receive an ACCDIS, based on the salaries and service at the initial retirement date and determined under the respective NYCRS, payable from the date of reclassification. There would be no change in the optional form of payment elected at the initial retirement date.

ACCIDENTAL DEATH BENEFITS

With respect to the NYCRS under current law, beneficiaries of those WTC Potential Recipients who die either while actively employed or while on an approved leave of absence and whose cause of death originated from a WTC qualifying condition or impairment of health may apply with the respective NYCRS within the applicable filing window for Accidental Death Benefits ("ACCDTH").

In addition, if such deceased NYCRS members are in any of the following groups:

* POLICE,
* FIRE,
* NYCERS in certain Triborough Bridge and Tunnel Authority job titles,
* NYCERS in certain Uniformed Department of Corrections job titles, or
* NYCERS in certain Emergency Medical Technician ("EMT") job titles

then such deceased member's beneficiaries could also be entitled to a Special Accidental Death Benefit ("SADB") provided under General Municipal Law ("GML") Section 208-f. Such SADB is generally based on the member's salary at the date of death, reduced by the ACCDTH benefits payable and any Social Security and Workers' Compensation death benefits. SADB is subject to annual cost-of-living increases.

Under current law, the beneficiaries of those active WTC Potential Recipients who retire for Service, Ordinary Disability Retirement or Accidental Disability Retirement and die, whose cause of death originated from a WTC qualified condition or impairment of health and who have not been retired for more than 25 years, may apply with the respective NYCRS within the applicable filing period for receipt of an ACCDTH and SADB, if eligible. Once such application is approved by the respective NYCRS Medical Board and respective NYCRS BOT, such beneficiaries would be entitled to the applicable benefits from the date of death.

To receive the ACCDTH, beneficiaries must relinquish their rights to any death benefits that would have otherwise been payable under the retiree's initial form of payment election.

These ACCDTH would replace the existent death benefits that are available for active, inactive and retired NYCRS members based on NYCRS, Tier and job title, if applicable.

IMPACT OF PROPOSED LEGISLATION ON WTC ELIGIBILITY PROVISIONS: Under current law, a WTC Potential Recipient must have registered by September 11, 2010 in order to ever become eligible to qualify for WTC ACCDIS or WTC ACCDTH.

Under the proposed legislation, if enacted, the deadline for registering for WTC ACCDIS or WTC ACCDTH would be extended to September 11, 2014 only for the Covered Groups, later defined.

IMPACT OF PROPOSED LEGISLATION ON WORKERS' COMPENSATION BENEFITS: The proposed legislation, if enacted, would:

1. Extend the period for filing statements of participation in the WTC Rescue, Recovery or Clean-up operations from September 11, 2010 to September 11, 2014 under the Workers' Compensation Law

2. Extend the deadline for filing claims for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012 to September 11, 2014

3. Provide that any such claim for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012 that was previously disallowed for failure to register timely would be reconsidered

COVERED GROUPS UNDER PROPOSED LEGISLATION: With respect to the NYCRS, the proposed legislation would expand coverage under the WTC Disability Law to certain groups ("Covered Groups"), provided they satisfy certain qualifying WTC conditions.

These Covered Groups are as follows:

* Active, vested and retired members in NYCTRS in Tiers I and II
* Active, vested and retired members in BERS in Tiers I and II
* Vested members in NYCERS in Tiers I and II
* Vested members in POLICE in Tiers I and II
* Vested members in FIRE in Tiers I and II
* Vested Uniformed Corrections members in NYCERS in Tier III
* Vested Uniformed Sanitation members in NYCERS in Tier IV
* Vested Deputy Sheriff members in NYCERS in Tier IV and Tier VI
* Vested EMT members in NYCERS in Tier IV and Tier VI

WTC DISABILITY LAW PROVISIONS APPLYING TO THE COVERED GROUP: All of the WTC Disability Law provisions would apply to the Covered Group. However, the Special Accidental Death Benefits provided under GML Section 208-f to certain groups would not apply.

ESTIMATED FINANCIAL IMPACT OF PRIOR FISCAL NOTE 2008-09: Fiscal Note 2008-09, dated June 18, 2008, which estimated the financial impact of proposed legislation LBDC #12080-02-8, enacted as Chapter 489 of the Laws of 2008 to expand the coverage of the WTC Disability Law, included the estimated financial impact attributed to the Covered Groups described above based upon the Actuary's understanding of the intent of the recommendations of the September 11 Worker Protection Task Force, rather than adhering to the strict draft wording of proposed legislation LBDC #120870-02-8.

Accordingly, the estimated financial impact of the proposed legislation (denoted by Verison date (6/7/12) was based on the financial impact of these Covered Groups that was previously determined in Fiscal Note 2008-09, adjusted for the passage of time using actuarial principles and to reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCRS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3 of the Laws of 2013 ("Chapter 3/13").

It is assumed that the estimated financial impact would be de minimis for:

(1) Extending the deadline for registering for WTC ACCDIS and WTC ACCDTH to September 11, 2014 only for the Covered Groups as described under COVERED GROUPS UNDER PROPOSED LEGISLATION section of this Fiscal Note,

(2) Extending the deadline from September 11, 2010 to September 11, 2014 for filing a registration of participation in the WTC Rescue, Recovery and Clean-up operations under the Workers' Compensation Law,

(3) Extending the deadline for filing claims for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012 to September 11, 2014, and

(4) Providing that any such claim for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012 that was previously disallowed for failure to register timely would be reconsidered.

ADDITIONAL ACTUARIAL PRESENT VALUE OF BENEFITS AND EMPLOYER COSTS: Under the proposed legislation, the estimated additional Actuarial Present Value of Benefits ("APVB") and employer costs for each of the NYCRS are shown in the following table.

INCREASES IN APVB AND ANNUAL EMPLOYER COST
OF INCLUDING CERTAIN RECOMMENDATIONS OF THE
SEPTEMBER 11 WORKER PROTECTION TASK FORCE
FOR CERTAIN MEMBERS OF
NYCERS, NYCTRS, BERS, POLICE AND FIRE*

($ Millions)

ITEM	NYCERS	NYCTRS	BERS	POLICE	FIRE	TOTAL
Increase in APVB	$1.8	$2.1	**	$0.6	$0.1	$4.6
Increase in Annual Employer Costs***	$0.6	$0.7	**	$0.2	**	$1.5

*The increase in APVB and in Annual Employer Costs for these Covered Groups was included in the financial impact of Fiscal Note 2008-09. The results included in Fiscal Note 2008-09 have been adjusted using actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCRS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13 to arrive at the results shown above.

It is assumed that the estimated financial impact would be de minimis for:

1. Extending the deadline for registering for WTC ACCDIS and WTC ACCDTH to September 11, 2014 only for Covered Groups under the proposed legislation,

2. Extending the deadline from September 11, 2010 to September 11, 2014 for filing a registration of participation in the WTC Rescue, Recovery and Clean-up operations under the Workers' Compensation Law,

3. Extending the deadline to September 11, 2014 for filing claims for Workers' Compensation benefits for a WTC-related disablement that occured between September 12, 2008 and September 11, 2012, and

4. Providing that any such claim for Workers' Comepnsation benefits for a WTC-related disablement that occured between September 12, 2008 and September 11, 2012 that was previously disallowed for failure to register timely would be reconsidered.

For purposes of this Fiscal Note, the Actuary has assumed that reclassification of certain retired members to WTC-Related Accidental Disability Retirement from Service Retirement or Ordinary Disability Retirement

would result in changes in benefits, prospectively only from the date of reclassification.

** Less than $50,000.

*** Assumes that Net Increases in APV of Future Employer Normal Costs are financed over the average remaining working lifetimes of members impacted by the benefit changes which has been estimated to be five years.

ADDITIONAL EMPLOYER CONTRIBUTIONS - GENERAL: In general, the real cost of the enactment of this proposed legislation would be the additional benefits paid.

However, the timing and amount of additional employer contributions attributable to the enactment of this proposed legislation will depend primarily upon five factors:

* The point in time when the Actuary revises actuarial assumptions to reflect whether certain active members who now would be expected to receive Service Retirement benefits, Ordinary Disability Retirement benefits, or Accidental Disability Retirement benefits would in the future be eligible for World Trade Center Accidental Disability Retirement and/or Accidental Death benefits.

* The point in time at which the Actuary revises actuarial assumptions to reflect possible, further, increased expectations for Accidental Disability Retirements.

* The points in time after retirement when diseases deemed to be disabling and attributable to WTC-related activities could result in reclassification of Service Retirements, Ordinary Disability Retirements, or Accidental Disability Retirements to World Trade Center Accidental Disability Retirements.

* The points in time after retirement subsequent to reclassification, or in the application process, to a WTC-Related Accidental Disability Retirement which could result in Accidental Death from a WTC-Related Malady.

* The impact on employer contributions of any actuarial gains or losses attributable to additional Accidental Disability Retirements and Accidental Deaths.

ADDITIONAL EMPLOYER CONTRIBUTIONS - FISCAL YEARS 2013 AND LATER: Assuming that this proposed legislation is enacted during the current Legislative Session on or before June 30, 2013 or after June 30, 2013 and on or before June 30, 2014, then the enactment of this proposed legislation would increase annual employer contributions beginning Fiscal Year 2014 as follows:

* To NYCERS by approximately $0.6 million and by a comparable percentage of payroll thereafter,

* To NYCTRS by approximately $0.7 million and by a comparable percentage of payroll thereafter,

* To BERS by approximately less than $50,000 and by a comparable percentage of payroll thereafter,

* To POLICE by approximately $0.2 million and by a comparable percentage of payroll thereafter, and

* To FIRE by approximately less than $50,000 and by a comparable percentage of payroll thereafter.

These employer contributions were included in the financial impact of Fiscal Note 2008-09 and have been adjusted using actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCRS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by

the New York State Legislature and Governor as Chapter 3/13 to arrive at the results shown above.

In accordance with ACNY Section 13.638.2(k-2), new Unfunded Actuarial Accrued Liability ("UAAL") attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetimes of those impacted by the benefit changes. For this proposed legislation, the Actuary has estimated that the remaining working lifetime of those impacted to be five years. Using this approach, the additional UAAL would be amortized over a five-year period (four payments under One-Year Lag Methodology) using level dollar payments.

UNMEASURED ADDITIONAL COSTS: The additional APVB and employer costs and contributions attributable to additional World Trade Center Accidental Disability Retirements and World Trade Center Accidental Deaths shown herein are based only upon using the actuarial assumptions and methods described herein.

1. The protections afforded under the provisions of the WTC Disability Law to the Covered Groups described in the COVERED GROUPS UNDER PROPOSED LEGISLATION section of this Fiscal Note,

2. The extension of the deadline for registering for WTC ACCDIS, and WTC ACCDTH benefits from September 11, 2010 to September 11, 2014 only for the Covered Groups under the proposed legislation,

3. The extension of the deadline from September 11, 2010 to September 11, 2014 for filing a registration of participation in the WTC Rescue, Recovery and Clean-up operations under the Worker's Compensation Law,

4. The extension of the deadline to September 11, 2014 for filing claims for Workers' Compensation benefits for a disablement that occurred between September 12, 2008 and September 11, 2012, and

5. Providing that any such claim for Workers' Compensation benefits for a disablement that occurred between September 12, 2008 and September 11, 2012 that was previously disallowed for failure to register timely would be reconsidered.

As noted earlier, the estimated financial impact for the preceding items 2, 3, 4 and 5 is assumed to be de minimis.

Additional APVB and employer costs attributable to any benefits other than those described herein have not been estimated.

No estimate has been made for non-vested, terminated members or for other possible WTC Potential Recipients who are not currently participants in the NYCRS.

No estimate has been made for the possible, initial reduction in payroll costs due to Additional Disability Retirements or Additional Deaths.

No estimate has been made for additional administrative expenses, for possible increases in Workers' Compensation costs or for expected, increased medical and insurance related costs.

CENSUS DATA: With respect to the NYCRS, the calculation of estimated changes in APVB and changes in employer costs are in part based on the active census data used in the June 30, 2007 (Lag) actuarial valuation, adjusted to June 30, 2012 in accordance with the actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCRS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13. Such census was adjusted for employees who were hired on or after September 13, 2002 and, in general, are unlikely to be WTC Potential Recipients.

In addition, the calculation of estimated changes in the APVB and changes in employer costs are in part based on the census data of

retired members used in the June 30, 2007 (Lag) actuarial valuation, adjusted to June 30, 2012 in accordance with actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCRS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13, to determine the Fiscal Year 2012 and later employer contributions. Such census data includes post-September 11, 2001 retirees.

Furthermore, based on the June 30, 2007 census information, terminated vested members between September 11, 2001 and June 30, 2007, adjusted to June 30, 2012 in accordance with actuarial principles and to reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCRS during Fiscal Year 2012 and the Actuarial Interest Rate assumption on %7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13, were included to the extent that they were WTC Potential Recipients, could become incapacitated due to a WTC-Related Malady and reclassify as WTC-ADR.

ACTUARIAL ASSUMPTIONS AND METHODS: The additional APVB and employer costs and contributions have been determined based on the actuarial assumptions and methods used in June 30, 2012 (Lag) actuarial valuations of NYCERS, NYCTRS, BERS, POLICE and FIRE.

In order to develop an estimate of the increase in APVB for NYCTRS members, the following probabilities of reclassification to WTC-ADR were used at the ages shown:

NYCRS
Reclassification to WTC-ADR FROM

AGE	SERV	ODR	ADR
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SER, ODR and ADR, respectively, for active members:

SERV 2%
ODR 4%
ADR 4%

In order to develop an estimate of the increase in APVB for BERS members, the following probabilities or reclassifications to WTC-ADR were used at the ages shown:

BERS
RECLASSIFICATION TO WTC-ADR FROM

AGE	SERV	ODR	ADR
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 2%
ODR 4%

ADR 4%

It has also been assumed that Accidental Disability Retirees who die within 25 years of the initial retirement date would die from a WTC-Related Malady.

Due to limitations of time, resources and expected, limited impact on overall results, the following estimates were made relative to the June 30, 2007 (Lag) actuarial valuation, adjusted to June 30, 2012 in accordance with actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCRS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13 to determine the Fiscal Year 2012 and later employer contributions. In addition, for Terminated Vesteds,

* APVB was developed as the ratio of the respective liability to the total liability of all active members.

* APVB was adjusted to reflect both the difference in the magnitude of a WTC-ACCDIS relative to the SERV benefit otherwise payable and in the payability date of such benefits.

In developing estimates of additional APVB upon reclassification after retirement, the increases in WTC-ADR benefits are assumed to be prospective from the date of reclassification.

Additionally, because the mortality expectation for an individual does not change just because that individual receives a different type of benefit, the measurement of the increase in APVB for Service Retirees who reclassify as WTC-ADR has been calculated based on post-disablement retirement mortality.

ECONOMIC VALUES OF BENEFITS: The actuarial assumptions used to determine the financial impact of the proposed legislation discussed in this Fiscal Note are those appropriate for budgetary models and determining annual employer contributions to the NYCRS.

However, the economic assumptions (current and proposed) that are used for determining employer contributions do not develop risk-adjusted, economic values of benefits. Such risk-adjusted, economic values of benefits would likely differ significantly from those developed by the budgetary models.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2013 Legislative Session. It is Fiscal Note 2013-13, dated June 5, 2013, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund and the New York Fire Department Pension Fund.