STATE OF NEW YORK

6261

2017-2018 Regular Sessions

IN SENATE

May 11, 2017

Introduced by Sen. AMEDORE -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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

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

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

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

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

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made not later than two years after the member is first discontinued from service.

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

1. Such member; or

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

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

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

LBD11572-01-7

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

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

(b) The particulars thereof; and

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

(d) His or her alleged incapacity.

2. The notice herein required need not be given:

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.