

# STATE OF NEW YORK

7286

## IN SENATE

January 15, 2020

Introduced by Sen. SKOUFIS -- 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:

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

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

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

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

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

21 1. Such member; or

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

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

24 c. 1. After the filing of such an application, such member shall be  
25 given one or more medical examinations. No such application shall be  
26 approved, however, unless the member or some other person on his or her

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

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1 behalf shall have filed written notice in the office of the comptroller  
2 within ninety days after the accident, setting forth:

- 3 (a) The time when and the place where such accident occurred; and  
4 (b) The particulars thereof; and  
5 (c) The nature and extent of the member's injuries; and  
6 (d) His or her alleged incapacity.

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

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

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

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

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

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

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

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

37 § 2. This act shall take effect immediately.