*** § 605-b. Accidental disability retirement for New York city uniformed sanitation members.** a. Definitions. The following terms as used in this section shall have the following meanings unless a different meaning is plainly required by the context:

1. "New York city uniformed sanitation member" shall mean a member (as defined in subdivision e of section six hundred one of this article) of NYCERS who is a member of the uniformed force of the New York city department of sanitation.

2. "NYCERS" shall mean the New York city employees' retirement system.

3. "Eligible prior uniformed sanitation disability retiree" shall mean a person who retired for disability as a NYCERS member and as a member of the uniformed force of the New York city department of sanitation pursuant to section five hundred seven or six hundred five of this chapter, with an effective date of retirement on or after November first, nineteen hundred eighty-two, and prior to the effective date of this section.

b. 1. A New York city uniformed sanitation member who, on or after the effective date of this section, is determined by NYCERS to be physically or mentally incapacitated for the performance of duty as the natural and proximate result of an accident, not caused by his or her own willful negligence, sustained in the performance of such uniformed sanitation service while actually a member of NYCERS shall be retired for accidental disability. Such retirement shall be effective as of the date approved by the board of trustees of NYCERS.

2. Except as provided in paragraph one of subdivision c of this section, applications for accidental disability retirement may be made not later than two years after the occurrence of the accident upon which the application is based. Such application may be made by:

(a) a New York city uniformed sanitation member;

(b) the commissioner of the New York city department of sanitation; or

(c) any person acting on behalf of and authorized by such member.

3. NYCERS shall process applications for accidental disability retirement pursuant to this section in accordance with the applicable statutory provisions and the rules and regulations of NYCERS pertaining generally to the processing of disability retirement applications. Unless inconsistent with the provisions of this section, the provisions of section 13-169 of the administrative code of the city of New York, relating to medical review procedures, and section 13-171 of such code, relating to safeguards on disability retirement, shall be applicable to accidental disability retirements pursuant to this section. The board of trustees of NYCERS shall have the authority to adopt rules and regulations for the purposes of implementing this section.

4. Subject to the provisions of section 13-176 of the administrative code of the city of New York, the annual retirement allowance payable to accidental disability retirees pursuant to this section shall be an amount equal to three-quarters of the member's final average salary. The retirement allowance payable pursuant to this section shall be in lieu of any other disability retirement allowance which may otherwise be payable by NYCERS.

c. 1. Notwithstanding the provisions of paragraphs one and two of subdivision b of this section or any other provision of law to the contrary, any eligible prior uniformed sanitation disability retiree (as defined in paragraph three of subdivision a of this section) shall be eligible to apply for accidental disability retirement pursuant to subdivision b of this section either (a) if the member is vested and is incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, or (b) by filing an application with NYCERS within one year of the effective date of this section.

2. Any eligible prior uniformed sanitation disability retiree who files a timely application for accidental disability retirement pursuant to paragraph one of this subdivision, and who retired either for disability pursuant to section six hundred five of this article with less than ten years of credited service, or for accidental disability pursuant to section five hundred seven of this chapter, shall be granted

accidental disability retirement benefits pursuant to subdivision b of this section, with payability of those benefits to begin on the earlier of (a) January first, two thousand five, or (b) a date certified as the payability date for all persons entitled to accidental disability retirement benefits pursuant to this subdivision by the commissioner of labor relations for the city of New York in a letter to the executive director of NYCERS.

3. Any eligible prior uniformed sanitation disability retiree who files a timely application for accidental disability retirement pursuant to paragraph one of this subdivision, and who retired for disability pursuant to section six hundred five of this article with ten or more years of credited service, shall have that application processed in accordance with the applicable provisions which govern the processing of accidental disability retirement applications filed pursuant to subdivision b of this section by or on behalf of active New York city uniformed sanitation members of NYCERS. NYCERS shall use its best efforts to make its determinations on such applications as soon as practicable. Where NYCERS determines that any such prior uniformed sanitation disability retiree is entitled to accidental disability retirement benefits pursuant to subdivision b of this section, payability of those benefits shall begin on the earlier of (a) January first, two thousand five, or (b) a date certified as the payability date for all persons entitled to accidental disability retirement benefits pursuant to this subdivision by the commissioner of labor relations for the city of New York in a letter to the executive director of NYCERS.

4. The accidental disability retirement allowance payable pursuant to this section to any eligible prior uniformed sanitation disability retiree determined by NYCERS to be entitled to such benefit shall be in lieu of any other disability retirement benefit which such member may have been receiving or entitled to receive from NYCERS. Any such person who was receiving disability retirement benefits from NYCERS pursuant to any statutory provision other than this section shall continue to receive payment of such benefits until accidental disability retirement benefits become payable pursuant to this section on the applicable date specified in paragraphs two and three of this subdivision. On and after

such date he or she shall no longer be entitled to receive disability benefits from NYCERS pursuant to such other statutory provisions.

5. Any eligible prior uniformed sanitation disability retiree who becomes entitled to accidental disability retirement benefits pursuant to this section shall have the same method of payment applied to such benefits as was applicable to the disability retirement benefits he or she was receiving from NYCERS pursuant to a statutory provision other than this section, and such person shall not be permitted to change such method of payment from the maximum retirement allowance to an option or from the option selected previously to another option or to the maximum retirement allowance.

6. Notwithstanding any other provision of law to the contrary, for the purposes of calculating the cost-of-living adjustment which may otherwise become payable pursuant to section 13-696 of the administrative code of the city of New York to an eligible prior uniformed sanitation disability retiree for any period of time after such person has begun receiving accidental disability retirement benefits pursuant to this section, the year of retirement of such person shall be deemed to be the year in which he or she retired for disability pursuant to section five hundred seven or six hundred five of this chapter, as the case may be.

d. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code 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 this chapter, 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 head of the retirement system 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 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, 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, 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 thirty-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 such retiree's or vestee's 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 such retiree's or vestee's 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 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; (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.

* NB There are 2 § 605-b's