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Heart Bill Questions & Answers

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Q: What is the Heart Bill?

A: On December 29, 1999, Governor Pataki signed into law a Heart bill for State Correctional Officers and Security Hospital Treatment Assistants. The law, which amended Sections 63-a, 507-b and 607-a of the Retirement and Social Security Law, provides:

Notwithstanding any provision of this chapter or any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a correctional officer or security hospital treatment assistant, which examination failed to disclose evidence of any diseases or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.

Q: When does the Heart Bill take effect?

A: The law took effect on December 29, 1999 when Governor Pataki signed the bill into law.

Q: How do I apply for a disability retirement?

A: The New York State Retirement System has advised us that the Chapter 722 application should be used at this time.

Q: What am I entitled to if I am approved for a Heart Bill disability retirement?

A: The disability retirement allowance is three-quarters (3/4) or seventy-five (75%) percent of a disabled member's final average salary.

Q: If I had a heart attack prior to the passage of this law and am currently

employed as a Correctional Officer, Sergeant or SHTA, am I eligible for this benefit?

A. The fact that you had a previous heart attack does not affect your eligibility. You can still apply for the benefit. However, just because you have a heart condition does not automatically entitle you to a disability retirement. Your heart condition must render you permanently incapacitated from performing the full and strenuous duties of your position. Therefore, if you are currently working your condition most probably will not be considered as rendering you permanently incapacitated. However, if you are not able to go to work and have a heart condition, you should apply for a disability retirement.

Q. If I am retired can I now apply for this benefit?

A. No. The law is clear that you must be “presently employed” to be eligible for this benefit.

Q: What should I do if I have any further questions?

A: You should contact the New York State Retirement System at (518) 474-7736; or contact Chris Leo, NYSCOPBA’s Legislative Director, at (518) 427-1551.



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Heart Bill Clarification

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STATE OF NEW YORK

7569

IN SENATE

June 18, 2004

Introduced by Sens. MORAHAN, GOLDEN, LEIBELL -- read twice and ordered printed, and when printed to be committed to the Committee on Rules AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local retirement system

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

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

4 2. Notwithstanding any provision of this chapter or of any general,
5 special or local law to the contrary, any condition of impairment of
6 health caused by diseases of the heart, resulting in disability or death
7 to a policeman, presently employed, and who shall have sustained such
8 disability while so employed, shall be presumptive evidence that ~~it~~ it
9 was incurred in the performance and discharge of duty and the natural
10 and proximate result of an accident, unless the contrary be proved by
11 competent evidence.

12 § 2. The retirement and social security law is amended by adding a new
13 section 807 to read as follows:

14 § 807. Effect and rebuttal of certain medical presumptions pertaining
15 to diseases of the heart. a. This section shall apply to certain appli-
16 cations for disability retirement allowances made by or on behalf of a
17 member of the New York state and local employees' retirement system or
18 the New York state and local police and fire retirement system and to
19 certain applications for death benefits made on account of the death of
20 a member of the New York state and local employees' retirement system or
21 the New York state and local police and fire retirement system. It shall
22 apply only to applications that are subject under this chapter to a
23 provision that any condition of impairment of health caused by a disease
24 of the heart, resulting in disability or death, shall be presumptive
25 evidence that such disability or death was incurred in the performance
26 and discharge of duty and the natural and proximate result of an acci-

27 dent.

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

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S. 7569

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1 b. Notwithstanding any other provision of law to the contrary, an
 2 application for an accidental disability retirement allowance that is
 3 based on a permanent incapacity caused by a disease of the heart, or an
 4 application for an accidental death benefit that is based on a disease
 5 of the heart shall not be required to allege or establish:

6 (1) that the member sustained an accident or other incident related to
 7 the performance and discharge of duty; or

8 (2) that notice was provided thereof.

9 c. Notwithstanding any other provision of law to the contrary, the
 10 presumptions referred to in subdivision a of this section may be
 11 rebutted only by competent evidence that the disability or death is not
 12 the natural and proximate result of the performance and discharge of
 13 duty.

14 § 3. This act shall take effect immediately.

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

This bill would amend the Retirement and Social Security Law in relation to heart disease related disabilities and deaths for members in the New York State and Local Employees' Retirement System (ERS) who currently have "heart provisions" and all members in the New York State and Local Police and Fire Retirement System (PFRS). It would grant accidental disability and accidental death benefits for heart cases by deeming such disabilities or deaths to have been sustained in the performance of duty, and the natural and proximate result of an accident, unless the contrary be proven by competent evidence.

If this bill is enacted, more accidental disabilities and accidental death benefits would be granted. The estimated increase in the annual contributions to the State of New York would be approximately \$6.7 million for its PFRS members, State Correction Officers and Unified Court Officers. The increases in annual contributions for the participating employers in the PFRS would be approximately \$10.5 million. The increases in annual contributions for ERS counties that have elected the provisions of Article 14-B for their sheriffs would be approximately 0.4% of salary. The increases in annual contributions for ERS counties that have elected the provisions of Section 607-d for their sheriffs not covered under Article 14-B and correction officers would be approximately 0.3% of salary. The increase in annual contributions for the Town of Tonawanda would be approximately 0.3% of the salary of its paramedics. This estimate, dated March 29, 2004 and intended for use only during the 2004 Legislative Session, is Fiscal Note No. 2004-288 prepared by the Actuary for the New York State and Local Police and Fire Retirement System.



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